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L A W S

PASSED AT THE

SECOND SESSION

OF THE

GENERAL ASSEMBLY

OF THE

STATE OF COLORADO,

CONVENED AT DENVER,

ON THE

FIRST DAY OF JANUARY, A. D. 1879.

PUBLISHED BY AUTHORITY.

DENVER:

DAILY TIMES PRINTING HOUSE AND BOOK MANUFACTORY.

1879.

Entered according to Act of Congress, in the year 1879, by

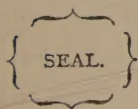
NORMAN H. MELDRUM,

Secretary of State, for the use of the State of Colorado, in the office of the
Librarian of Congress, at Washington, D. C.

CERTIFICATE.

STATE OF COLORADO, }
Secretary's Office. } ss.

I, NORMAN H. MELDRUM, Secretary of State of the State of Colorado, do hereby certify that by virtue of the authority vested in me by an act of the First General Assembly of the State of Colorado, entitled "An act to provide for the public printing and publishing and distribution of the laws of this state," approved February 20, 1877, I have prepared for publication, and caused to be printed, a copy of all the laws enacted by the Second General Assembly of the State of Colorado; and I do further certify that in accordance with the requirements of an act of the Second General Assembly of said state, entitled "An act requiring the secretary of state to collect together certain laws of the territory of Colorado which may be in force after the session of the present legislature," approved February 12, 1879, I have prepared and had printed herewith the special laws so required to be published; and I do further certify that I have carefully compared the said printed laws with the original manuscripts thereof, now on file in my office, and that the following are full, true and correct copies thereof.



In testimony whereof, I have hereunto set my hand and affixed the great seal of the state, at the city of Denver, this tenth day of March, A. D. 1879.

NORMAN H. MELDRUM,
Secretary of State.

STATE OFFICERS

AND MEMBERS AND OFFICERS OF THE SECOND GENERAL ASSEMBLY.

EXECUTIVE DEPARTMENT.

NAME.	POSITION.	POST OFFICE.
Frederick W. Pitkin . . .	Governor	Denver.
William B. Vickers . . .	Private Secretary . . .	Denver.
Horace A. W. Tabor . . .	Lieutenant Governor . .	Denver.
Norman H. Meldrum . . .	Secretary of State . . .	Denver.
James M. Galloway . . .	Dep. Sec'y of State . . .	Denver.
Nathan S. Culver . . .	Treasurer of State . . .	Denver.
George Culver	Deputy Treasurer . . .	Denver.
Eugene K. Stimson . . .	Auditor of State . . .	Denver.
Charles W. Wright . . .	Attorney General . . .	Denver.
Joseph C. Shattuck . . .	Supt. Public Instruc'n . .	Denver.
Robert G. Howell	Sec. Land Board . . .	Denver.

JUDICIAL DEPARTMENT.

SUPREME COURT.

NAME.	POSITION.	POST OFFICE.
Henry C. Thatcher . . .	Chief Justice	Denver.
Samuel H. Elbert	Judge	Denver.
Wilbur F. Stone	Judge	Denver.
Keyes Danforth	Clerk of Court	Denver.

JUDICIAL DEPARTMENT—CONTINUED.

DISTRICT COURT JUDGES.

NAME.	DISTRICT.	POST OFFICE.
William E. Beck	First District	Boulder.
Victor A. Elliott	Second District	Denver.
John W. Henry	Third District	Pueblo.
Thomas M. Bowen	Fourth District	Colorado Springs.

GENERAL ASSEMBLY.

MEMBERS OF SENATE.

NAME.	COUNTY.	POST OFFICE.
Juan Antonia Baca	Costilla	San Luis.
Casimero Barella	Las Animas	Trinidad.
Alfred Butters	Arapahoe	Denver.
Juan F. Chacon	Conejos	Conejos.
Frank Church	Arapahoe	Denver.
A. H. DeFrance	Jefferson	Golden.
L. C. Ellsworth	Arapahoe	Denver.
Jas. F. Gardner	Douglass	Frankstown.
Eugene Gaussoin	Bent	West Las Animas.
James B. Hall	Saguache and Lake . .	Villa Grove.
Assyria Hall	Park	Fairplay.
Silas B. A. Haynes	Weld	Greeley.
Joseph C. Helm	El Paso	Colorado Springs.
Isaac W. Hill	Pueblo	South Pueblo.
James M. John	Las Animas	Trinidad.
Albert Johnson	Clear Creek	Georgetown.
James P. Maxwell	Boulder	Boulder.
Henry Neikirk	Boulder	Boulder.
Thos. C. Parrish	Custer and Fremont . .	Rosita.
Fred. C. Peck	Hinsdale, etc.	Lake City.
Ledru R. Rhodes	Larimer	Fort Collins.
Merrick A. Rogers	Arapahoe	Denver.
Clemente Trujillo	Huerfano	Walsenburg.
Wm. W. Webster	Summit, etc.	Montezuma.
Edward O. Wolcott	Clear Creek	Georgetown.
Henry R. Wolcott	Gilpin	Denver.

GENERAL ASSEMBLY—CONTINUED.

OFFICERS.

Horace A. W. Tabor . .	President, <i>ex officio</i> . .	Denver.
James P. Maxwell . . .	President, <i>pro tem</i> . . .	Boulder.
William W. Orrick . . .	Secretary	Lake City.
William J. Kram	Assistant Secretary . .	Evans.
Julius Levy	Sergeant-at-arms	Denver.
James R. Treadway . . .	Enrolling Clerk	Denver.
Miss Lizzie Shumway . .	Engrossing Clerk	Denver.
Rev. F. S. Graham	Chaplain	Denver.

MEMBERS OF HOUSE.

NAME.	COUNTY.	POSTOFFICE.
William R. Bartlett . . .	Summit	Breckenridge.
Frank Bingham	Bent	Rocky Ford.
Lucas Brandt	Larimer	Fort Collins.
Henry P. H. Bromwell . .	Arapahoe	Denver.
Jared L. Brush	Weld	Greeley.
Thomas J. Cantlon	Clear Creek	Georgetown.
George M. Chilcott	Pueblo	Pueblo.
Julius H. Clark	Las Animas	Trinidad.*
Matthew O. Coddington . .	Clear Creek	Idaho Springs.
Benito Cordova	Las Animas	Trinidad.
James H. Crawford	Grand	Steamboat Springs.
Robert Douglass	El Paso	Monument.
J. G. Evans	Boulder	Caribou.
Judson T. Flower	Park	Bailey's.
Henry Gebhard	Elbert	Kiowa.
Christopher C. Gird	Arapahoe	Cherry Creek.
Isaac Gotthelf	Saguache	Saguache.
Allen T. Gunnell	Hinsdale	Lake City.
Richard Harvey	Gilpin	Central City.
Joseph Hoffman	Costilla	Garland.
Joseph Hutchinson	Lake	South Arkansas.
Benjamin K. Kimberly . . .	Arapahoe	Denver.
Wm. J. Lewis	Gilpin	Nevada.
James McD. Livesay	Gilpin	Black Hawk.
Juan B. Lovato	Conejos	Conejos.
Herman E. Luthe	Arapahoe	Denver.
Vincent Maez	Huerfano	Walsenburg.

GENERAL ASSEMBLY—CONTINUED.

NAME.	COUNTY.	POSTOFFICE.
Joseph Mann	Jefferson	Golden.
William J. Mann	Boulder	Caribou.
J. B. Martinez	Las Animas	Trinidad.
James A. McCandlass	Fremont	Canon City.
William McLaughlin	Custer	Silver Cliff.
Lorin C. Mead	Weld	Longmont.
Matthew D. Morehead	Douglas	Castle Rock.
Joseph G. Pease	Jefferson	Morrison.
Ivory Phillips	El Paso	Bijou Basin.
Robert S. Roe	Arapahoe	Denver.
William Scott	Boulder	Caribou.
Daniel L. Sheets	La Plata	Animas City.
Henry Slockett	Clear Creek	Georgetown.
Royal A. Southworth	Arapahoe	Denver.
William Spruance	Clear Creek	Georgetown.
Rienzi Streeter	Boulder	Longmont.
John J. Thomas	Pueblo	Pueblo.
Wm. D. Todd	Arapahoe	Denver.
Charles H. Toll	Rio Grande	Del Norte.
Romero Trujillo	Costilla	San Luis.
Martin Y'Valdez	Huerfano	St. Marys,
John H. P. Voorhees	San Juan and Ouray	Silverton.

OFFICERS.

Rienzi Streeter	Speaker	Longmont.
William B. Felton	Chief Clerk	Saguache.
M. R. Moore	Assistant Clerk	Lake City.
J. M. Ramsey	Sergeant-at-Arms	Denver.
Homer Shepherd	Engrossing Clerk	Georgetown.
C. A. Hutchings	Enrolling Clerk	Castle Rock.
Rev. H. L. Beardsley	Chaplain	Longmont.

GENERAL LAWS.

AN ACT

To authorize any Clerk of the Circuit or District Court of the United States for the District of Colorado, to take Acknowledgments of Deeds and other Instruments of Writing.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Deeds, bonds, and agreements in writing conveying lands, or any interest therein, or effecting [affect- Clerk of U. S. circuit or district court may acknowledge deeds, etc.] title thereto, may be acknowledged or proved before any clerk of the circuit or district court of the United States for the district of Colorado, or any deputy of such clerk; such clerk certifying such acknowledgment under the seal of such court respectively.

SEC. 2. It being the opinion of this Assembly that an emergency exists, therefore this act shall take effect from Emergency. and after its passage.

Approved February 6, 1879.

AN ACT

To Loan \$2,000 to enable the State Board of Agriculture to open the State Agricultural College for Public Instruction.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The sum of two thousand dollars is hereby appropriated out of any money in the state treasury, not Appropriation.

6 AGRICULTURAL COLLEGE—AGRICULTURE, BOARD OF.

otherwise appropriated, to enable the state board of agriculture to open and maintain a school in the state agricultural college, in accordance with the provisions of the law creating the state board of agriculture.

SEC. 2. The auditor of state is hereby authorized to draw his warrants on the fund created by section one of this act, on the presentation of certificates of indebtedness issued by the state board of agriculture, signed by the president, and countersigned by the secretary.

Treasurer to
replace amount
when collected.

SEC. 3. It shall be the duty of the state treasurer to draw from the fund in favor of the agricultural college of Colorado, arising by reason of the levy of one-fifth of a mill for the year 1879, the sum of two thousand dollars, as soon as that amount is collected, and place the same to the credit of the general fund of the state.

Emergency.

Whereas, it is necessary to commence operations on the farm as early as the month of March next, therefore it is the opinion of this Assembly that an emergency exists, and this act shall be in full force from and after its passage.

Approved February 8, 1879.

AN ACT

To amend Chapter Seven of the General Laws, entitled "An Act to Establish a State Board of Agriculture, and to Define its Duties."

Be it enacted by the General Assembly of the State of Colorado:

Vacancies.

Quorum.

Compensation of
members of
board.

SECTION 1. Section three of chapter seven of the General Laws is hereby amended so as to read as follows: Any vacancy in the said board caused by death, resignation, or removal from the state, may be filled by a majority of the members. A majority shall be a quorum for the transaction of business. The members of the board shall severally receive as compensation four dollars per day for each

day actually employed in the necessary business of the board, and actual traveling expenses in going to and returning from sessions of board.

SEC. 2. Section twenty of said chapter seven is hereby amended so as to read as follows :

The state board of agriculture shall have the general Powers of board. control and supervision of the state agricultural college, the farm pertaining thereto, and lands which may be vested in the college by state or national legislation, [and] of all appropriations made by the state for the support of the same. The board shall have plenary power to adopt all such ordinances, by-laws and regulations, not in conflict with the law, as they may deem necessary to secure the successful operation of the college and promote the designed objects.

SEC. 3. Section eleven of said chapter seven is hereby repealed, and the following adopted in place thereof:

The secretary shall receive as compensation for his services a salary of one hundred dollars per annum, until such Pay of secretary. time as the board shall establish and maintain a school, and thereafter the board shall fix the salary of the secretary in proportion to the time employed and services performed.

SEC. 4. Section twelve of said chapter seven is hereby repealed, and the following adopted in place thereof:

The board shall set aside in the hands of the treasurer such sum of money each year, as they shall deem necessary to defray the legal expenses of the board and the salary of Expenses of board, etc. the secretary; also for the purchase and transportation of seeds, plants and trees required, expressage, postage and other contingent expenses.

Approved February 12, 1879.

AN ACT

Making Appropriation for the State Board of Health for the Years 1879 and 1880.

Be it enacted by the General Assembly of the State of Colorado :

SECTION 1. That for the purpose of paying all ex-

penses of the state board of health during the years 1879 and 1880, there is hereby appropriated the sum of eight hundred dollars, out of any money in the state treasury not otherwise appropriated.

Approved February 8, 1879.

AN ACT

Making Appropriations to Pay Outstanding State Certificates of Indebtedness, and the Interest Thereon.

Be it enacted by the General Assembly of the State of Colorado :

SECTION 1. That there is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of forty-five thousand dollars, to pay outstanding state certificates of indebtedness heretofore issued in pursuance of law.

SEC. 2. That there is hereby appropriated out of any moneys in the treasury, not otherwise appropriated, the sum of five thousand dollars, to pay interest on state certificates of indebtedness heretofore issued in pursuance of law.

Approved February 10, 1879.

AN ACT

To provide for the Ordinary Expenses of the Executive, Legislative and Judicial Departments of the State, and Interest in [on] the Public Debt, for the Years 1879 and 1880.

Be it enacted by the General Assembly of the State of Colorado :

SECTION 1. That for the purpose of defraying the

ordinary expenses of the executive, legislative and judicial departments of the state, and interest on the public debt for the years 1879 and 1880, the following sums are hereby appropriated out of any funds in the state treasury not otherwise appropriated:

For the salaries of the officers of the executive department, and the judges of the supreme and district courts, district attorney [attorneys], private secretary of the governor, secretary of the state board of land commissioners, and clerk of the secretary of state, in addition to the unexpended balance remaining in the officers' salary fund, which balance is hereby transferred to this fund, the sum of forty-five thousand dollars for the year 1879, and forty-five thousand dollars for the year 1880. Salaries.

For incidental printing required by law, the sum of three thousand dollars. Incidental printing.

For the general contingent expenses of the executive and judicial departments, the sum of five thousand dollars for the year 1879, and five thousand dollars for the year 1880. General contingent.

For printing required by the General Assembly, including the laws and journals of the Second General Assembly, in addition to the unexpended balances remaining on hand in the following funds, which are hereby transferred to this fund, legislative committee, state fees, code, general laws, internal improvements, secretary of state record special, supreme court library, the sum of ten thousand dollars. Legislative printing.

For rent of the executive and judicial departments, in addition to the unexpended balance remaining on hand in this fund, which balance is hereby transferred to this fund, the sum of four thousand dollars for the year 1879, and five thousand dollars for the year 1880. Rent.

For the incidental expenses of the executive, legislative and judicial departments, including pay of janitor, coal, water, gas, cleaning vaults, stationery and other incidental expenses of said departments, the sum of three thousand dollars. Incidental expenses.

- Per diem and mileage.** For per diem and mileage of members, and per diem of officers and employes of the Second General Assembly, in addition to the unexpended balance remaining on hand in this fund, which balance is hereby transferred to this fund, the sum of eighteen thousand dollars.
- Preparing laws.** For copying, translating and indexing the laws, the sum of three thousand dollars.
- Contingent expenses.** For the general contingent expenses of the General Assembly, including rent of halls, committee rooms, stationery, supplies of all kinds, and for labor, the sum of four thousand dollars.
- Balances of 1879 to be added to 1880.** SEC. 2. Any sum remaining to the credit of any fund herein mentioned at the end of the year 1879 shall be added to the appropriation herein made to that fund for the year 1880.
- Emergency.** SEC. 3. Inasmuch as there is no money to the credit of some of the funds herein mentioned, therefore this act shall take effect from and after its passage.
- Approved February 10, 1879.

AN ACT

Making Appropriations to Pay Expenses and Claims incurred under the Law Concerning Fugitives from Justice.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That there be, and is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of two thousand (\$2,000) dollars, to defray the expenses and claims already, or which may hereafter be incurred by the state under the law concerning fugitives from justice.

Approved February 14, 1879.

AN ACT

Making appropriations for the Insane Asylum for the
Years 1879 and 1880.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That there be, and is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of eight thousand dollars, for the support of the insane asylum for the years 1879 and 1880.

Approved February 8, 1879.

AN ACT

Making appropriations to Reimburse the several Counties of the State for Moneys heretofore ore [or] hereafter expended by them in the Support of Insane Paupers.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That there be, and hereby is appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of ten thousand dollars, to reimburse the several counties of the state for any moneys heretofore or hereafter expended by them in the support of insane paupers.

Approved February 11, 1879.

AN ACT

To provide a Fund for Erecting Additional Buildings at the Mute and Blind Institute, and for other improvements.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That for the purpose of erecting addi-

tional buildings for the Mute and Blind Institute, providing water for the same, and for the purpose of providing additional printing material for the use of the same, the sum of five thousand five hundred dollars (\$5,500) is hereby appropriated out of any fund in the state treasury not otherwise appropriated.

SEC. 2. Said fund shall be used exclusively for the purpose aforesaid.

SEC. 3. The auditor of state, upon the order of the president of the board of trustees, countersigned by the secretary thereof, shall draw his warrant in favor of the treasurer of said board, for the sum above specified.

Approved February 20, 1879.

AN ACT

Making appropriations for the Maintenance and Support of the State Penitentiary for the Years 1879 and 1880.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That for the purpose of paying all expenses required for the maintenance and support of the state penitentiary, including salaries of officers and employees, and any and all other lawful expenses incurred therein during the year 1879, there is hereby appropriated out of any money in the [state] treasury not otherwise appropriated, the sum of thirty thousand dollars, in addition to the unexpended balance remaining on hand from moneys received from convict labor, which balance is hereby transferred to this fund; and for the year 1880, the sum of thirty-five thousand dollars, in addition to all moneys received for convict labor during the years 1879 and 1880. Any money remaining unexpended of the appropriation for the year 1879, at the end of the year shall be credited to the appropriation herein made for the year 1880.

Approved February 11, 1879.

Appropriation
for the year 1879.

Appropriation
for 1880.

Unexpended
balance of 1879
to be credited to
1880.

AN ACT

Making Appropriations for Expense of Selecting, Locating, Appraising, Leasing and Selling Land donated to the State by the United States, and the Expenses of the State Board of Land Commissioners for the Years 1879 and 1880.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That the unexpended balance remaining on hand in the state treasury in the land commissioners' fund be, and the same is hereby transferred to the same fund of 1879 and 1880, and the same is hereby appropriated to pay the expenses of the land commissioners for the years 1879 and 1880; *Provided*, that the land commissioners' fund shall be held to include the expense of all kinds, of locating, selling, leasing and appraising all school and other state lands.

Appropriation for expenses land commissioners for 1879 and 1880.

SEC. 2. That the unexpended balances remaining on hand in the state treasury in the register and receiver, and the mute and blind institute funds, are hereby transferred to the register and receiver fund of 1879 and 1880, and the same is hereby appropriated to pay the United States register's and receiver's fees in locating state lands donated by the United States for the years 1879 and 1880.

Appropriation for fees register and receiver for 1879 and 1880.

Approved February 8, 1879.

AN ACT

To provide for the Purchase of Law Books for the Library of the Supreme Court.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That there be appropriated one thousand (1,000) dollars out of any funds in the state treasury not

otherwise appropriated, for the purchase of law books for the library of the supreme court of this state.

SEC. 2. That the judges of the supreme court shall determine what books shall be purchased, as provided in section one of this act, and the auditor is hereby authorized to issue his warrants for the payment of the same, upon the certificates of the supreme court judges or the chief justice.

SEC. 3. That inasmuch as books are needed immediately for the library of the supreme court, therefore it is the sense of this General Assembly that an emergency exists, and that this act shall be in force on and after its passage.

Approved February 8, 1879.

AN ACT

To enable the State of Colorado to purchase a certain number of "Reports of Cases at Law and in Chancery, determined in the Supreme Court of Colorado, by L. B. France, Official Reporter."

Be it enacted by the General Assembly of the State of Colorado:

Appropriation
for Volumes III.
and IV.

SECTION 1. That there shall be appropriated out of any moneys in the state treasury not otherwise appropriated the sum of ten hundred and fifty dollars, for the purchase of one hundred and fifty copies of a "report of cases at law and in chancery, determined in the supreme court of Colorado," and designated as "Colorado Reports, Volume III.," and also a like sum for a like number of volume IV. of said reports, by L. B. France, official reporter; and the auditor of state is hereby authorized to draw his warrant for the sum of ten hundred and fifty dollars in favor of the said L. B. France, when the said one hundred and fifty copies of volume III. shall be delivered to the secretary of state, and shall also draw his warrant for the like amount in favor of

the said L. B. France, when the said one hundred and fifty copies of volume IV. shall be delivered to the secretary of state.

Approved February 12, 1879.

AN ACT

To provide an Additional Fund for the Current Expenses of the State University, and for the Improvement of the Buildings and Grounds thereof.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That for the purpose of making alterations in the university building, improving the grounds, providing additional furniture, and for the current expenses, the sum of seven thousand dollars is hereby appropriated out of any fund in the state treasury not otherwise appropriated. Appropriation.

SEC. 2. Said fund shall be used exclusively as aforesaid; *Provided*, that any surplus of such fund remaining in the hands of the board of regents may be used in the purchase of a library. How fund to be used.

SEC. 3. The auditor of state, upon the order of the president of the board of regents, countersigned by the secretary thereof, shall draw his warrant in favor of the treasurer of said board for the sum above specified; *Provided*, that no part of the university fund shall be used to pay any salary to the regents of the university. When auditor to draw warrant.

Approved February 18, 1879.

AN ACT

To provide [for] the Payment of Witnesses in the Contested Election Case of Boyd vs. De France, for a Seat in the State Senate from the Seventh District, and to Reimburse the said DeFrance his Expenses incurred by him therein in consequence of said contest.

Be it enacted by the General Assembly of the State of Colorado :

Appropriation.

SECTION 1. That there is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of one hundred and fifteen dollars and sixty cents, in payment of the claims of witnesses, and of A. H. DeFrance, in the contested election case of Joseph T. Boyd against Allison H. DeFrance, for a seat in the state senate of Colorado, from the seventh senatorial district.

To whom to be paid.

SEC. 2. That said sum of money be distributed and paid to the following-named persons in sums as follows, to-wit:

To Charles H. Danforth, witness	\$ 5.20
To Joseph Kennison, witness	6.00
To William M. Allen, witness	6.00
To John G. Huber, witness	8.00
To Al. Townsend, witness	12.00
To John Powell, witness	8.00
To George W. Goldsworthy, witness	8.00
To Thomas M. Littlefield, witness	8.00
To R. H. Stewart, witness	8.00
To S. S. Woodbury, witness	12.40
To W. B. Todd, witness	8.00
To J. G. Pease, witness	8.00

and to the said DeFrance, contestee, the sum of \$18.00, the latter sum being for expenses incurred by said DeFrance in said contest.

Auditor to draw warrants.

SEC. 3. The auditor of state shall draw his warrants upon the state treasury in favor of the respective persons, and for the respective sums named in section two hereof.

SEC. 4. It is the opinion of this General Assembly

that an emergency exists, therefore this act shall take effect Emergency. and be in force from and after its passage.

Approved February 11, 1879.

AN ACT

In relation to Attachments issued out of Justices' Courts.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. If any creditor, or credible person for Affidavit re- him, shall make and file with any justice of the peace his quired. affidavit, setting forth that the defendant in such affidavit named, is justly indebted to such creditor in a sum of money not exceeding three hundred dollars, upon a contract, express or implied, stating the amount of such indebtedness, as near as may be, and shall also allege any one or more of the following grounds of attachment:

First. That the said debtor is a foreign corporation. Upon what grounds writ may issue.

Second. That the said debtor is not a resident of this state.

Third. That said debtor conceals himself, or stands in defiance of an officer, so that process of law cannot be served upon him, or that said debtor has been for four months last past absent from the state, or that for four months the whereabouts of said debtor have been unknown, and that the debt for which suit is brought has been due during the said period of four months.

Fourth. That the said debtor has departed, or is about to depart, from this state, with intent to have his property, or a material part thereof, removed from the state, or that the said debtor is about to remove his property from the state, with intent to hinder, delay or defraud his creditors.

Fifth. That said debtor has conveyed, transferred or assigned, or is about to convey, transfer or assign his property, with intent to hinder, delay or defraud his creditors.

Sixth. That said debtor has concealed, removed or

disposed, or is about to conceal, remove or dispose of his property, with the intent of hindering, delaying or defrauding his creditors.

Seventh. That the debt is for an article or articles, the price or value of which should have been paid at the time of the delivery thereof, and which the said debtor failed or refused to do.

Eighth. That the debt was for work and labor performed which said debtor should have paid at the time when the work and labor was performed.

Ninth. That the said debtor fraudulently contracted or incurred the debt, or by false representations or false pretences, or by any other fraudulent pretences procured the money, goods, chattels or effects of the plaintiff, the justice of the peace may, at the time of issuing the summons in the action, or at any time afterwards before final judgment in the action, issue a writ of attachment against the personal property of the said debtor within his county, not by law exempt from execution, as security for any judgment which the plaintiff may recover in such action.

Undertaking
required.

SEC. 2. No writ of attachment shall be issued by the justice of the peace until there has been executed and filed in his office by one or more sufficient sureties of the plaintiff, to be approved by the justice, an undertaking in at least double the amount of the plaintiff's claim, conditioned that the plaintiff shall pay the defendants all damages and costs which the defendant shall sustain by reason of the attachment, if the same was wrongfully obtained.

To whom writ
addressed.

SEC. 3. The writ of attachment shall be addressed to any constable of the proper county, and shall require him to attach the goods, chattels, stocks, or interest in stocks, rights, credits, moneys and effects of the defendant in his county, not exempt by law from execution, or so much thereof as will satisfy the plaintiff's claim, to be stated in the affidavit, and the probable costs of the action.

Attachment
upon debt not
due.

SEC. 4. Actions may be commenced and writs of attachment may issue as hereinbefore prescribed upon debts and liabilities not yet payable, if the affidavit states any one

of the grounds of attachment mentioned in this act, except the first, second and third; *Provided*, that in any such cases, if the ground of attachment fails to be proved, no judgment shall be rendered, and the action shall be dismissed; *Provided further*, that a rebate of interest from the time when the judgment is rendered until the maturity of the debt, shall be allowed in all cases where a judgment in favor of the plaintiff is rendered under the provisions of this section.

SEC. 5. The defendant, or his agent or attorney, may at any time before the trial of the question of indebtedness, by an affidavit, put in issue the grounds of attachment alleged in the affidavit upon which the writ was issued. If upon trial of the issue thus made the plaintiff shall establish the truth of any one of the grounds of attachment alleged in his affidavit, the attachment shall be sustained. If upon trial of the issues the plaintiff wholly fail to establish any sufficient ground for attachment, the attachment shall be dissolved at the costs [cost] of the plaintiff, but if the debt is due at the time of the trial, the action may proceed to judgment after the attachment is dissolved, as in actions where no attachment was issued. Attachment, how traversed.

SEC. 6. The writ of attachment shall be directed to any constable of the county in which the suit is commenced, and shall require such constable to serve a copy of the writ upon the defendant, and to attach and safely keep so much of the personal property of the defendant within his county, which is liable to be taken in execution, as may be sufficient to satisfy the plaintiff's demand (the amount of which shall be stated in the writ, in conformity with the affidavit for the attachment), unless the defendant deposit with the justice the sum of money mentioned in the writ, or give the plaintiff security, to be approved by the justice, by the undertaking of at least two sufficient sureties, in an amount sufficient to satisfy such demand, besides costs, or in an amount equal to the value of the property which has been attached. If such undertaking be offered, it shall be the duty of the justice to accept the same, if sufficient. Writ, to whom directed.

Shares of stock
and debts may
be attached.

SEC. 7. The rights, shares and interest which the defendant may have in any corporation, joint stock company or partnership, together with the interest and profits thereon, as well as all debts due the defendant from any person, shall be subject to be taken by virtue of the writ of attachment, and if judgment be recovered may be sold to satisfy the judgment and execution.

Writ, how executed.

SEC. 8. The constable to whom the writ is delivered shall execute the same without delay, and if the deposit be not made, or the undertaking given, as hereinbefore provided, then as follows :

First. Personal property, capable of manual delivery, shall be attached by taking the same into the custody of the constable.

Second. Debts, credits, and other things in action which are not capable of manual delivery, shall be attached by leaving with the person owing such debts, or having in his possession or under his control such credits, or with his agent, a copy of the writ of attachment, and a notice that the debts owing [by] him to the defendant, or the credits or other choses in action or personal property in his possession or control belonging to the defendant, are attached in pursuance of said writ. Every corporations [corporation] or other than municipal corporation, sheriff, constable or trustee, shall be liable to be garnished under the provisions of this section.

When garnishee
liable to plaintiff.

SEC. 9. Any person so served with notice, as provided in the preceding section, may deliver all moneys due the defendant, or personal property or choses in action belonging to the defendant in his possession or under his control, to the constable holding the attachment writ, whose receipt therefor shall be sufficient evidence of such delivery. If such delivery be not made, the person so garnished shall be liable to the plaintiff for the amount of all debts, property or things in action for which he would otherwise be liable to the defendant until the attachment is dissolved or the judgment recovered in the action is fully satisfied.

SEC. 10. Every person so garnished shall be required

to appear before the justice who issued the attachment writ, at a time and place to be mentioned in the garnishee summons, and be examined on oath touching his indebtedness to the defendant, or the personal property or things in action, which he had at the time of service of such notice, or which may have come into his possession, of and belonging to the defendant in the attachment. Upon such examination the justice may order the property or things in action, which belong to the defendant, that are in the custody or control of the garnishee, to be surrendered to the constable holding the writ of attachment upon such terms as may be just. If such property be not capable of delivery, then a memorandum of the same shall be delivered to the constable, to be by him endorsed on the attachment writ.

Garnishee may
be examined on
oath.

SEC. 11. The constable shall make a full and complete inventory of the property attached by him, and return the same to the justice who issued the attachment writ. To enable him to make such return as to things in action and debts due by the garnishee to the defendant, he shall at the time of serving the writ of attachment and notice, provided for in section nine (9) of this act, request the party owing the debt, or holding possession of the things in action for the defendant in the attachment, to give him a written statement, under oath, of the amount of his indebtedness to the defendant in the attachment, and of the things in action belonging to him, which are in his possession or control; if such statement be refused, the constable shall return the fact of such refusal with the writ.

Inventory of
attached prop-
erty.

SEC. 12. If any person other than the defendant in attachment claim to own or be entitled to the possession of the property attached, or any part of it, he may file his affidavit with the justice at any time before the trial of the action, setting forth his claim, and particularly specifying what property he claims. Upon such affidavit being filed, the justice shall designate a time and place for the trial of the right of property, not more than five days from the date of the filing of such affidavit. Notice in writing shall be given to the attaching creditor, and to the debtor, if such

When property
is claimed by
third party.

notice can be given, of the claim to be tried. In all cases where, upon trial of the issue thus made, the right of property is found to be in the claimant, the damages suffered by the claimant by reason of the levy shall be assessed by the court or jury, and the claimant shall recover his costs of the attaching creditor. If the judgment be in favor of the attaching creditor, the latter shall recover his costs of the claimant.

Exemption of
property from
seizure.

SEC. 13. If the defendant, or any one for him, shall claim the property [attached] to be exempt from seizure by virtue of any law of this state, and the attaching creditor shall deny that such property is so exempt, the proceedings had in cases provided for in the preceding section shall be had to try the right of exemption.

If plaintiff ob-
tains judgment,
how satisfied.

SEC. 14. If judgment be recovered by the plaintiff for the debt, or any part thereof, the justice shall issue an order of sale to the constable, directing him to satisfy such judgment out of the proceeds of the property attached by him, so far as the same shall suffice. And in case the property attached be not sufficient to satisfy such judgment, then the justice shall issue an execution, as in other cases. All sales under attachment shall be conducted as in [is] by law provided in cases of sales of personal property under execution.

Delivery of
property to de-
fendants upon
satisfaction of
judgment

SEC. 15. Whenever the judgment shall have been satisfied in full, the constable shall re-deliver to the defendant, or his authorized agent, upon reasonable demand, all of the property attached remaining in his hands unsold, and the proceeds of any property which may have been sold that have not been applied to the payment of the judgment and costs of the cause.

Release of at-
tached property.

SEC. 16. The defendant may, at any time before final judgment in the action, release all property which may have been seized by virtue of the attachment writ, by his executing an undertaking as hereinafter provided. Such undertaking shall be given by the defendant to the plaintiff, be signed by two responsible sureties, each a resident of the county in which the suit is pending, and shall be to the

Undertaking
required.

effect that in case the plaintiff recover judgment against the defendant in the action, and the attachment is not dissolved, the defendant will deliver to the constable all property which has been seized by him by virtue of the attachment writ, or on failure so to do, will pay to the plaintiff the full value of the property attached, not exceeding the amount of the judgment and costs recovered in the action. To ascertain the value of the property attached, the justice, on the application of the defendant, shall appoint three disinterested persons, who shall be sworn to appraise and fix the value of the property attached, and who shall make due return of the appraisement to the justice forthwith. Upon return of such appraisement, the sum to be fixed in the undertaking herein provided for shall be double the amount of such appraisement. The sureties on such undertaking shall be required by the justice to justify in double the amount of the appraised value of the attached property, as in other cases.

Appraisal.

SEC. 17. The defendant may also at any time before the trial of the action on [its] merits, upon at least twenty-four hours' notice to the plaintiff, or his agent, move the justice to discharge the writ of attachment on the ground that the writ was improperly issued for any reasons appearing on the face of the papers in the action. And on the hearing of such motion, the justice shall have full power to permit all papers and process in the action to be amended with a view to substantial justice to the parties. No writ of attachment shall be dissolved in any case for any error or defect in the affidavit, undertaking or process, if, at the request of the plaintiff, such defective papers may be amended or new papers be substituted therefor, and the suit shall proceed as if such defective papers had been originally sufficient.

Defendant may move to discharge attachment.

SEC. 18. The constable shall return to the justice who issued it, the writ of attachment, with the summons, with a certificate of his proceedings, had by virtue of said writ, on or before the day set for the trial of the action.

Writ, how returned.

SEC. 19. If the plaintiff, or any credible person for him, shall make oath before the justice that it is necessary

Writ executed on Sabbath day.

to execute the writ of attachment on Sunday or any legal holiday, in order to secure property sufficient to satisfy the judgment to be obtained, the justice shall endorse on the writ an order that the writ be executed on the Sunday or other legal holiday.

How service
made upon non-
resident.

SEC. 20. Whenever affidavit shall be made that the defendant resides without the State of Colorado, and cannot be found therein, so that service of process cannot be personally had on him, or that he conceals himself or stands in defiance of an officer, with intent to prevent service of process upon him, it shall be the duty of the justice of the peace to cause notice of the attachment to be published by posting three notices of the levy of such attachment, and of the day and hour at which the trial of the cause will be had at his office, in three of the most public places within his precinct. If at the time set for trial the defendant does not appear to defend the action, the justice shall proceed to hear the cause, and render judgment, as in cases where the summons has been personally served; *Provided*, that such notices shall be posted at least ten (10) days prior to the day set for trial; *and provided further*, that the constable shall in such cases retain the summons until the day set for trial, so that personal service of the summons may be had before the day set for trial, if practicable.

Failure of gar-
nishee to deliver
property to con-
stable.

SEC. 21. If any garnishee shall have failed to deliver to the constable any property of the defendant in attachment, when notified as provided in section ten (10) of this act, or to give a memorandum, as required by section eleven (11), upon judgment being rendered in favor of the plaintiff, it shall be the duty of the justice to issue a summons in the name of the plaintiff against such garnishee, requiring such garnishee to appear before him at a day and hour therein named, to show cause why judgment should not be rendered in favor of the plaintiff and against the garnishee, as a garnishee of the defendant in the original action, for the amount of such judgment, or so much thereof as remains unsatisfied. If upon trial of the garnishment, it appear that the garnishee is indebted to the judgment debtor in a debt payable in money, or have [has] in his possession things in

action, or property belonging to the judgment debtor, the justice shall render judgment against such garnishee for the amount of such money or the value of such things in action or property in the possession of such garnishee; *Provided*, such judgment shall not exceed the judgment and costs rendered against such judgment debtor. And if the garnishee shall fail to appear on the return day of such summons, or fail to pay over such money as he may have in his hands, or to deliver to the constable such property as the garnishee may have in his possession belonging to the defendant, judgment shall be rendered against the said garnishee for the full amount of the judgment against the said defendant and the costs of the suit. An appeal shall lie to the county court from any order made by the justice under this section.

SEC. 22. Whenever a defendant in attachment shall flee from the county with his property, to evade seizure of such property by virtue of the writ issued against him, it shall be lawful for the constable to whom such writ has been delivered, to follow and seize the property of such defendant wherever it may be found within the state, and take it back to the county in which the suit has been originally instituted.

SEC. 23. It is the sense of this General Assembly that an emergency exists, therefore this act shall take effect and be in force from and after its passage.

Approved February 8, 1879.

AN ACT

In relation to Bastardy.

Be it enacted by the General Assembly of the State of Colorado :

SECTION I. When any single woman who shall be delivered of a child, which by law would be deemed and held a

Complaint
against father.

bastard, or being pregnant with child which if born alive would be a bastard, shall desire to make a complaint against the father of such child, she may make such complaint to any justice of the peace of the county where she may be so delivered; or in case the child is unborn, then to any

Justice to issue
warrant for ar-
rest.

justice of the peace where she may reside; and thereupon such justice shall issue a warrant for the person accused, to be served by the sheriff or any constable, and shall cause him to be brought before such justice forthwith; and upon

Examination of
accused.

his appearance the justice shall proceed to question the female in the presence of the party accused touching the charge against him, which examination shall be taken down in writing, and if such justice shall think the complaint

Bond.

well founded, the justice shall bond the accused in a bond, with sufficient sureties, in a penalty of not less than five hundred dollars, to be and appear at the next district court of the county to answer the complaint, and in default of such surety may commit the accused.

Duty of justice;
court may cause
issue to be made
and tried, how.

SEC. 2. It shall be the duty of the justice to return all the proceedings to the next district court, which court, if the woman should desire it, may cause an issue to be made up whether the reputed father is the real father or not, which issue shall be tried by a jury as other issues in said court, and on the trial thereof both parties shall be competent witnesses.

Damages, how
assessed and
paid.

SEC. 3. If the jury shall find for the complainant, they may assess such damages as they may think proper for the support of such child in favor of the complainant, and may direct the same to be paid annually or otherwise for any term of years not exceeding eighteen, and the court shall render judgment accordingly, and execution shall issue. If the jury make an annual allowance, then execution may be issued annually for the sum so annually allowed by the jury, computing from the term at which judgment was rendered.

Support, main-
tenance and
education of
child.

SEC. 4. A fair proportion of the sum so recovered shall be appropriated to the support, maintenance and education of the bastard child, and for that purpose may be

demand and received by any guardian that may be appointed for such child, the amount being regulated by order of the chancery court.

SEC. 5. If the issue should be found against the coun- If issue found against com-
plainant. plainant and in favor of the accused, he shall be discharged and the woman shall pay the costs.

SEC. 6. No proceeding under this act shall be instituted Limitation. after the child is twelve months old.

Approved February 18, 1879.

AN ACT

Relating to Official Bonds, and to Obligations given to Boards of County Commissioners.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. No district judge, district attorney, county commissioner, county attorney, county clerk, or judge shall hereafter become a surety on any official bond given by any county officer, justice of the peace, or constable in this state.

SEC. 2. No such officer shall become surety on any bond or obligation given to any board of county commissioners in this state. And a violation of this act shall work a forfeiture of any office held by such officer.

Approved February 8, 1879.

AN ACT

Authorizing the binding out of indigent children by County Commissioners and relative thereto; to adopt children, and Jurisdiction of District and County Courts regarding the same.

Be it enacted by the General Assembly of the State of Colorado:

County superintendents may bind out indigent children.

SECTION 1. The county superintendents of the poor in the several counties of this state, may bind out to service to such person as the county commissioners shall choose, any child under the age of fourteen years, who is, or shall become chargeable to such county, and so continue for six months, until such child shall be eighteen years old; which binding shall be as effectual as if such child had bound himself, with consent of his parents.

Age.

SEC. 2. The age of any such child so bound shall be ascertained and inserted in the indentures, and shall be taken to be the true age of such child without further proof thereof.

What indenture shall contain.

SEC. 3. Whenever any child shall be bound out by the county superintendent of the poor of any county, the indenture shall contain an agreement on the part of the person to whom such child shall be bound that he will provide for such child in sickness and in health, with food and clothing and necessary medical attendance, and cause such child to be instructed to read and write, and in the common English branches of education, either in the public or other school in which the same branches are taught, at least three months in each and every year. All such indentures shall be executed in duplicate, one of which, delivered to the county superintendent of the poor, shall be by him deposited in the office of the county clerk and recorder of the county for safe keeping.

Superintendents to be guardians of persons bound.

SEC. 4. The county superintendents of the poor of the several counties shall be the guardians of every person bound or held in service in their respective counties, to take care that the terms of the contract of service shall be ful-

filled, and that the person so bound is properly used. And said board of county commissioners shall at all times have power, with or without complaint being made to them, to examine into the manner in which any such bounden child may be treated by the person to whom the same may be bound, and in their discretion, for any cause, to revoke any such indenture as above mentioned, and either to order such child to be bound to some other person, or be returned to its friends, or make such other disposition as they may see fit, consistent with the provisions hereinafter contained. Said superintendent shall inform the board of county commissioners of all complaints made to him of improper treatment of any such bounden child, and of any facts which in any way come to his knowledge of neglect or abuse on the part of any person having custody or control of any such child.

May revoke indenture for cause.

Shall inform county commissioners of all complaints.

SEC. 5. The person to whom any such child shall be bound shall be entitled to the services of such child, and shall have his sole and exclusive care and control during the time such indenture may continue in force; and no parent who shall suffer or permit his child to become a county charge, shall, after such child has been bound to service, have any right or authority to the custody or control of such child during the time for which such child is bound, except upon sufficient cause shown to the board of county commissioners, upon reasonable notice to the party to whom such child is bound, or cause shown why such notice cannot be given; and said commissioners shall have power to make such [an] order requiring, in proper cases, just compensation to be made by such parent to the party to whom such child may then be bound, before such parent shall be entitled to the benefit of any order of said commissioners in his or her behalf.

Person to whom child is bound to have exclusive control of same.

SEC. 6. It shall be the duty of the county commissioners to fully investigate the character and responsibility of every person to whom it may be proposed to bind any such child, and no such child shall be bound to any person unless the commissioners are fully satisfied of such person's

County commissioners to investigate character of person to whom it is proposed to bind a child.

capacity, financially and morally, to comply with the true intent of the requirements of this act.

Adoption of
indigent or-
phans.

SEC. 7. The said county commissioners (and superintendent of the poor), shall have the same power and discretion to consent to the adoption of any orphan child who may have become a county charge, as the guardian or parent might have under any former law of this state; and said commissioners shall exercise the same care in ascertaining the character and capacity of the person proposing to adopt, as of a person proposing to take a child by binding; and shall have power to cancel any contract of adoption in case it shall appear that the same is abused, to the injury of the child thereby adopted.

Powers of dis-
trict and county
courts and
judges thereof.

SEC. 8. Nothing herein contained shall in any way hinder, impede or limit the district court of the proper county, in the exercise of all powers at any time heretofore exercised by courts of chancery, in caring for and protecting the rights of infant orphans; but said district court, or the judge thereof in vacation, shall at all times, as well as the county court, and the judge thereof in vacation, have power to inquire into any grievance committed or suffered to exist against any such bound or adopted child, whether orphan or not; and to make any and every order in the matter touching its welfare as justice may require, and for that purpose to order issued every writ such court or judge may deem necessary and appropriate.

Chairman board
of county com-
missioners to
be ex-officio
superintendent
of poor.

SEC. 9. That for the purposes of this act, the chairman of the board of county commissioners shall be *ex-officio* superintendent of the poor, in counties where there are no superintendents of the poor otherwise provided for.

Approved February 5, 1879.

AN ACT

To submit to the Qualified Electors of the State of Colorado an Amendment to Section Three of Article Ten of the Constitution of the State of Colorado, concerning Revenue.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That there shall be submitted to the qualified electors of the State of Colorado, at the next general election for members of the general assembly, for their approval or rejection, the following proposed amendment to the constitution of the State of Colorado, which, when ratified by a majority of those voting thereon, shall be valid as part of the constitution, to-wit:

Section three of article ten of the constitution of the State of Colorado shall be amended so as to read as follows, to-wit: SEC. 3. All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property real and personal; *Provided*, that mines and mining claims bearing gold, silver, and other precious metals, (except the net proceeds and surface improvements thereof,) shall be exempt from taxation for the period of ten years from the date of the adoption of this [amendment to the] constitution, and thereafter may be taxed as provided by law; *and, provided further*, that the household goods of every person being the head of a family, to the value of two hundred dollars, shall be exempt from taxation. Ditches, canals and flumes, owned and used by individuals or corporations for irrigating lands owned by such individuals or corporations, or the individual members thereof, shall not be separately taxed so long as they shall be owned and used exclusively for such purpose.

Taxes to be uniform; how levied, collected, etc.

Exemptions.

SEC. 2. Each elector voting at said election shall deposit in the ballot-box a ticket whereon shall be written or

Form of ballot.

printed, "For the amendment," or the words, "Against the amendment."

Votes, how canvassed.

SEC. 3. The votes cast for the adoption or rejection of said amendment shall be canvassed, and the result determined in the manner provided by the laws of the state for the canvass of votes for Representative in Congress.

Approved February 18, 1879.

AN ACT

To amend Section Forty of Chapter Nineteen of the General Laws of the State of Colorado.

Be it enacted by the General Assembly of the State of Colorado :

[SECTION 1.] That section forty of chapter nineteen of the General Laws of the State of Colorado, entitled "Corporations," approved March 14, 1877, be, and is hereby amended so as to read as follows :

Chairman or secretary to file affidavit.

SECTION 40. The chairman or secretary of such meeting shall, as soon as may be after such meeting, make and file in the office of the recorder of deeds in the county in which such congregation, church or society is organized, or in case of a general incorporation, as provided in section forty-four in the office of the secretary of state, an affidavit, substantially in the following form :

Form of affidavit.

STATE OF COLORADO, }
 County. } ss.

I do solemnly swear (or affirm, as the case may be) that at a meeting of the members of the (here insert the name of the society as known before incorporation), held at ———, in the county of ———, and State of Colorado, on the — day [of] ———, A. D. 187—, for that purpose, the following person [persons] were elected or appointed (here insert the names) trustees (or wardens, ves-

trymen, or officers of whatever name they choose to adopt, with powers and duties similar to trustees, according to the rules and usages of such society, church or congregation), adopted as its corporate name (here insert the name), and at said meeting this affiant acted as chairman (or secretary, as the case may be).

Subscribed and sworn to before me this — day of —, A. D. 18—.

(Name of affiant.)

Such affidavit, or a copy thereof, duly certified by the recorder, shall be received as evidence of the due incorporation of such congregation, church or society. Evidence of incorporation.

In addition to matters required to be stated in the affidavit as above, any such corporation may insert therein any other lawful clause or clauses, which they may desire to exist as a part of their charter. Additional matters which may be stated in affidavit.

Approved February 8, 1879.

AN ACT

Concerning Joint Stock Companies formed for Religious, Educational and Benevolent purposes.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Any joint stock company or association which may have been heretofore or may be hereafter organized in this state for religious, educational or benevolent purposes, may be incorporated under this act in the following manner, to-wit: By electing or appointing, according to its usages or customs, at any meeting held for that purpose, two or more of its members as directors, trustees, wardens or vestrymen, or other such officers whose powers and duties are similar to those of trustees, as shall be agreeable to the usages and customs, rules and regulations of such congregation, church or society, and may adopt a cor- Manner of incorporation of religious, educational and benevolent societies.

porate name, and upon the filing of the affidavit, as hereinafter provided, it shall be a body politic and corporate by the name so adopted.

Chairman or
secretary to file
affidavit.

SEC. 2. The chairman or secretary of such meeting shall, as soon as may be after such meeting, make and file in the office of the recorder of deeds in the county in which such congregation, church or society is organized, an affidavit, substantially in the following form :

STATE OF COLORADO, }
 County. } ss.

Form of
affidavit.

I do solemnly swear (or affirm, as the case may be) that at a meeting of the members of the (here insert the name of the society as known before the incorporation), held at ———, in the county of ———, and State of Colorado, on the ——— day of ———, A. D. 18—, for that purpose, the following persons were elected (or appointed) trustees, (or wardens, vestrymen or other officers of whatever name they choose to adopt, with powers and duties similar to trustees, according to the rules and usages of such society, church or congregation), viz : (here insert the names) ; that at such meeting, such society, church or congregation adopted as its corporate name (here insert the name) ; that the amount of the capital stock of such society, church or congregation is ——— dollars, divided into ——— shares of ——— dollars each, and that at such meeting this affiant acted as chairman (or secretary, as the case may be).

(Name of affiant.)

Subscribed and sworn before me this ——— day of
———, A. D. 18—.

Evidence of in-
corporation.

Such certificate, or copy thereof, duly certified by the recorder, shall be received as evidence of the due incorporation of such society, church or congregation.

By-laws.

SEC. 3. The directors, trustees, wardens or vestrymen of any such corporation, shall adopt necessary by-laws to

provide for the election of directors, trustees, wardens or vestrymen, and other officers, and for the proper government, in all respects, of such congregation, church or society.

SEC. 4. Upon the incorporation of any such congregation, church or society, all real and personal property held by any person or trustee for the use of the members thereof shall immediately vest in such corporation and be subject to its control, and may be used, mortgaged, sold and conveyed the same as if it had been conveyed to such corporation by deed.

Disposition of
real and personal
property
held in trust.

SEC. 5. Corporations formed under this act shall be bodies corporate and politic in fact and in name, by the name stated in such affidavit, and by that name have succession for the period for which they are organized; may sue and be sued in any court of law or equity in this state; may have a common seal, which they may alter or renew at pleasure, by filing an impression of the same in the office of the clerk and recorder of the county in which any such corporation may be formed under this act; may own, possess and enjoy so much real and personal estate as shall be necessary for the transaction of their business, whether acquired by purchase, grant, device, gift or otherwise; and may from time to time sell and dispose of the same, or any part thereof, when not required for the use of the corporation. They may borrow money and pledge their franchises and property, both real and personal, to secure the payment thereof, and may have and exercise all the powers necessary and requisite to carry into effect the object for which they may be formed under this act.

Powers and
authorities.

SEC. 6. The shares of stock shall not be less than ten dollars nor more than one hundred dollars each, and shall be deemed personal property and transferable as such in the manner provided by the by-laws; subscriptions therefor shall be made payable to the corporation, and shall be payable in such installments and at such time or times as shall be determined by the directors or trustees, or other similar officers. The by-laws may provide for a forfeiture or sale of stock, on failure to pay the installments or assessments

Shares of stock;
size, etc.

Forfeiture.

that may from time to time become due; but no forfeiture of stock, or of the amounts paid thereon, shall be declared against any estate, or against any stockholder, before demand shall have been made for the amount due thereon.

Corporate powers to be vested in board of directors.

SEC. 7. The corporate powers of any such corporation shall be exercised by a board of directors, trustees or other similar officers in the manner and for the time which may be prescribed in the constitution and by-laws of such corporation, provided the same shall not be in conflict with any of the provisions of this act or of the laws of this State.

Election of directors.

SEC. 8. In case it should happen at any time that an election of directors or trustees, or other similar officers, shall not be held on the day designated by the constitution or by-laws, when it ought to have been held, the company for that reason shall not be dissolved; but it shall be proper to elect such directors, trustees or other officers on any subsequent day as shall be prescribed by the constitution or by-laws.

Liability of stockholders; action for debt may be brought against.

SEC. 9. Each stockholder shall be liable for the debts of the corporation to the extent of the amount that may be unpaid upon the stock held by him, to be collected in the manner herein provided. Whenever any action is brought to recover any indebtedness against the corporation, it shall be competent to proceed against any one or more of the stockholders at the same time, to the extent of the balance unpaid by such stockholders upon the stock owned by them respectively, as in cases of garnishment.

Certificate of payment of stock.

SEC. 10. The president and a majority of the board of trustees, directors, or other similar officers, after the payment of the last installment of the capital stock, so fixed and limited by the company as aforesaid, shall make a certificate stating the amount of the capital stock so fixed and paid in, which certificate shall be signed and sworn to by the president and a majority of the board of trustees, directors, or other similar officers, and record the same in the office of the clerk and recorder of the county within which such corporation shall be formed; and from the date of the making and recording of such certificate as aforesaid, the

stockholders of such company shall not be liable for any of the debts of such corporation.

SEC. 11. The directors, trustees or other similar officers of any such corporation may purchase real and personal property necessary for their business, and issue stock to the amount of the value thereof in payment therefor; and the stock so issued shall be declared and taken to be full-paid stock, and not liable to any further calls or assessments thereon, nor for any debt of the corporation.

Issue of stock for property.

SEC. 12. Any congregation, church or society heretofore incorporated under the provisions of any law for the incorporation of religious, educational or benevolent societies, may become incorporated under the provisions of this act in the same manner as if it had not been previously incorporated; in which case the new corporation shall be entitled to and invested with all the real and personal estate of the old corporation, subject to all its debts, contracts and liabilities. The words "directors" and "trustees," wherever used in this act, shall be construed to include wardens, vestrymen, or such other officers as perform the duties of trustees or directors.

Corporations heretofore existing may become incorporated under the provisions of this act, how.

Construction of certain words.

SEC. 13. If any body of Christians, or other religious denomination, has, or shall have, according to its mode of government, an organization, whether known as synod, presbytery, conference, episcopate, or other name, with ecclesiastical or spiritual jurisdiction over its members throughout this State, and its authorities shall desire to engage in works of education, benevolence, charity and missions, and shall deem an incorporation convenient for the more successful administration of such works, all or any of them, its said authorities, with such persons as they may associate with them, may cause such incorporation to be formed in the manner and with the powers hereinbefore provided for the incorporation of a church, congregation or society.

Synods, presbyteries, etc., may incorporate under this act.

Approved February 20, 1879.

AN ACT

To amend Chapter Nineteen (19) of the General Laws of the State of Colorado, entitled "Corporations."

Be it enacted by the General Assembly of the State of Colorado:

Sworn statement
of capital paid
in to be filed and
recorded.

SECTION 1. That section twelve (12), of chapter nineteen (19), of the General Laws of the State of Colorado, entitled "Corporations," be, and the same is hereby, amended by striking out the words "within sixty days," and "within the said sixty days," where they occur therein, so that the said section as amended shall read: The president and a majority of the directors or trustees, after the payment of the last installment of the capital stock so fixed and limited by the company, shall make a certificate stating the amount of the capital so fixed and paid in, which certificate shall be signed and sworn to by the president and a majority of the directors or trustees, and they shall record the same in the office of the secretary of state, and a copy in the office of the recorder of deeds of the county wherein the business of said company is carried on.

Savings banks
not allowed un-
less organized
under law of
state

SEC. 2. That section sixty-five (65) of said chapter nineteen (19) be, and the same is hereby amended by striking out the word "private," where it occurs in said section, and inserting the word "savings," so that said section as amended shall read: No person or persons shall be permitted to carry on a savings bank not being organized under any laws of the state or of the Territory of Colorado.

SEC. 3. That section forty-two (42), of said chapter nineteen (19), be, and the same is hereby amended so as to read as follows:

Disposition of
real and per-
sonal property
held in trust.

SEC. 42. Upon the incorporation of any congregation, church or society, all real and personal property held by any person or trustees, for the use of the members thereof, shall immediately vest in such corporation, and to be subjected to its control, and may be used, mortgaged, sold and conveyed the same as if it had been conveyed to such corporation by deed; *Provided, nevertheless,* that if the

authorities of any church, sect or religious body shall have caused an incorporation to be formed for general missions and other purposes, as hereinafter provided, and it be in accordance with the usages and customs of such church, sect or religious body, to vest the property of mission stations in such corporation, then and in that case all such property as may have been held by any person or trustees for the use of such mission stations shall vest in said general corporation; and whenever any mission station shall, from change of population or other cause be suspended or abandoned, said general incorporation may, in their discretion, sell or otherwise dispose of all such mission property, the proceeds of such sale or disposal to be used for the benefit of said church, sect or religious body in the State of Colorado.

SEC. 4. Whenever the shareholders of any corporation, representing one-third or more of the stock thereof, shall request the trustees, president or secretary thereof to call a special meeting of the stockholders for any purpose designated in such request (other than the purposes named in sections one hundred and twenty-two and one hundred and twenty-five of the chapter to which this is amendatory), it shall be the duty of such trustees, president or secretary at once to call such special meeting, by delivering personally, or depositing in the post office a notice, properly addressed to each stockholder, signed by the president or secretary, stating the object and place of such meeting, as well as the time, which shall not be less than thirty nor more than forty days from the date of such notice, unless a longer time be expressed in the stockholders' request. If at any such special meeting the vote of a majority of all the stock lawfully issued shall be cast in favor of the proposition or measure designated in such request and notice, such proposition or measure shall thereby be adopted, and be binding on such corporation or company. The vote at every such meeting shall be by ballot, and each stockholder shall be entitled to as many votes as he owns shares of stock in said corporation.

Stockholders corporation representing one-third of stock may call special meeting.

Notice.

Majority of stock to control.

Vote to be by ballot, etc.

Approved February 8, 1879.

AN ACT

To amend Section One Hundred and Twenty-two of an Act entitled An Act concerning Counties, County Officers and County Government, and Repealing Laws on these subjects: Approved March 24, 1877.

Be it enacted by the General Assembly of the State of Colorado:

Assessment districts and deputy assessors.

SECTION I. That section one hundred and twenty-two (122) of an act entitled an act concerning counties, county officers and county government, and repealing laws on these subjects, approved March 24, 1877, be, and the same is hereby amended so as to read as follows, to wit: Whenever the board of county commissioners of any county shall be of the opinion that said assessor is unable to perform the duties of his office within the time prescribed by law, they shall divide said county into assessment districts, and shall require said assessor to appoint a deputy in each of said districts, who shall be a qualified elector of said district, and who shall be sworn and give bond to the principal.

Approved February 12, 1879.

AN ACT

Entitled An Act to enable the several Counties of the State to Fund their Floating Indebtedness.

Be it enacted by the General Assembly of the State of Colorado:

Counties having debt exceeding \$5,000 may fund same.

SECTION I. It shall be the duty of the county commissioners of any county having a floating indebtedness exceeding five thousand dollars, upon the petition of fifty of the electors of said county, who shall have paid taxes upon property assessed to them in said county in the pre-

ceding year, to publish for the period of thirty days, in a newspaper published within said county, a notice requesting the holders of the warrants of such county to submit, in writing, to the board of county commissioners of said county within sixty days from the date of the first publication of such notice, a statement of the amount of the warrants of such county issued prior to the first day of May, A. D. 1879, which they will exchange for the bonds of such county, to be issued under the provisions of this act, and the rate at which they will exchange such warrants for such bonds, taking such bonds at par. The publication of such notice shall be commenced at least four months before the next ensuing general election. In case no newspaper is published within such county, such notice may be published in such newspaper published at the city of Denver as the board of county commissioners may select.

Holders of warrants to submit statement of terms upon which they will exchange same for bonds.

Publication of notice.

It shall be the duty of such board of county commissioners, upon the petition of fifty of the electors of such county, who shall have paid taxes upon property assessed to them in said county in the preceding year, to publish, for the period of at least thirty days immediately preceding a general election, in some newspaper published within such county, a notice that there will be submitted to the vote of the qualified electors of such county who shall have paid taxes upon property assessed to them in said county in the preceding year, the question whether the board of county commissioners shall issue bonds of such county, under the provisions of this act, in exchange, at a certain rate, for the warrants of such county issued prior to the first day of May, A. D. 1879, which rate shall be determined by said board of county commissioners, and shall be stated in said notice; and the question whether such county indebtedness shall be funded, under the provisions of this act, shall thereby be submitted to the qualified electors hereinafter named, at the next ensuing general election. In case no newspaper is published within such county, said board of county commissioners shall cause such notice to be posted in at least two conspicuous places in each of the election precincts of such county, at least thirty days prior to the

Notice of submission of question to vote of people.

Publication of notice of submission.

County treasurer to furnish judges with list of taxpayers. next ensuing general election. The county treasurer of such county shall make out and cause to be delivered to the judges of election in each election precinct in the county, prior to the said election, a certified list of the taxpayers in such county who shall have paid taxes upon property assessed to them in such county in the preceding year; and no person shall vote upon the question of the funding of the county indebtedness unless his name shall appear upon such list, nor unless he shall have paid all county taxes assessed against him in such county in the preceding year. If two-thirds of the votes lawfully cast upon the question of such funding of the floating county indebtedness shall be for the funding of such indebtedness, the board of county commissioners may issue to any person or corporation holding any county warrant or warrants issued prior to the first day of May, A. D. 1879, coupon bonds of such county in exchange therefor, at a rate not exceeding that named in the notice published by the board of county commissioners.

Size of bonds.

Interest; rate, where and when payable.

Payable at pleasure of county after ten years, and absolutely due after twenty years.

Bonds to be registered.

But no bond shall be of less denomination than fifty dollars, and if issued for a greater amount, then for some multiple of that sum. Such bonds shall bear interest at a rate not to exceed eight per cent. per annum from the date of their delivery; the interest to be paid at the office of the county treasurer, or at the City of New York, at the option of the holders thereof, on the first days of February and August in each year, upon the production of the proper coupons for the same. Such bonds to be payable at the pleasure of the county, after ten years from the date of their issuance, but absolutely due and payable twenty years after the date of issue. The whole amount of bonds issued under this act shall not exceed the sum of the county indebtedness on the first day of May, 1879; and the amount shall be determined by the county commissioners, and a certificate made of the same, and made a part of the records of the county, and any bond issued in excess of said sum shall be null and void. And all bonds issued under the provisions of this act shall be registered in the office of the state

auditor, to whom a fee of ten cents shall be paid for recording each bond.

SEC. 2. All bonds which may be issued under the provisions of this act shall be signed by the board of county commissioners, countersigned by the county treasurer of the county, and attested by the clerk of said county, and bear the seal of the county upon each bond, and shall be numbered and registered in a book kept for that purpose by the county treasurer; in the order in which they are issued; each bond shall state upon its face the amount for which the same is issued, to whom issued, and the date of its issuance.

How signed,
sealed, num-
bered and
registered.

SEC. 3. The county commissioners shall be authorized to prescribe the form of such bonds, and the coupons thereto, and to provide for the half yearly interest accruing on such bonds actually issued and delivered; they shall levy annually a sufficient tax to discharge such interest, and for the ultimate redemption of such bonds they shall levy annually after eight years from the date of such issuance, such tax upon all the taxable property in their county as they shall deem best, not to exceed in any one year ten per cent. of the par value of the total amount of bonds issued and remaining unpaid, to create a fund to be called the redemption fund.

Authority of
county commis-
sioners.

All taxes for interest on and for the redemption of such bonds shall be paid in cash only, and shall be kept by the county treasurer as a special fund, to be used in the payment of interest on and the redemption of such bonds only, and such taxes shall be levied and collected as other taxes.

Taxes for
interest, etc., to
be paid in cash.

SEC. 4. It shall be the duty of the county treasurer, when there are sufficient funds in his hands to the credit of the redemption fund to pay in full the principal and interest of any of such bonds, immediately to call in and pay as many of such bonds and accrued interest thereon as the funds on hand will liquidate, as hereinbefore provided. Such bond or bonds shall be paid in the order of their number; and when any bonds or coupons issued under this act are taken up, it shall be the duty of said treasurer to

When and how
bonds to be paid.

certify his action to the board of county commissioners, who shall cancel the same, so that they can be plainly identified, and cause a record to be made of the same; and when it is desired to redeem any of such bonds, the county treasurer shall cause to be published for thirty days in some newspaper at or nearest the county seat of the county, and in a newspaper published in the city of Denver, a notice that certain county bonds, by numbers and amounts, will be paid upon presentation, and at the expiration of such thirty days such bonds shall cease to bear interest.

Vote for and
against funding,
how cast and
canvassed.

SEC. 5. All persons voting on the question as hereinbefore provided shall vote by separate ballot, which shall be deposited in a box to be used for that purpose only, whereon is placed the words, "for funding county debt," or "against funding county debt;" and if, upon canvassing the vote (which shall be canvassed in the same manner as the vote for county officers), it shall appear that two-thirds of all the votes cast upon the question so submitted are for funding the county debt, then the county commissioners shall be authorized to carry out the provisions of this act, and the canvassing board shall certify the vote, and it shall be made a part of the county records. The judges of election shall make and certify to the clerk of the county a separate list of the names of the electors voting upon the question of the funding of the county indebtedness, in the order in which the ballot of the elector so voting is received; and each ballot shall be numbered in the order in which it is received, and the number recorded on the said list of voters opposite the name of the voter who presents the ballot.

Execution of
provisions of
this act.

SEC. 6. As soon as possible after such election, if the bonds shall be voted, the officers herein mentioned and authorized shall proceed to execute the provisions of this act, as far as the same relates to the county warrants of that county; but nothing herein contained shall be construed to prevent the exchanging of bonds for warrants, upon terms and at a rate more favorable than that stated in the notice provided for in section one of this act.

SEC. 7. All acts or parts of acts in conflict with this Repeal. act are hereby repealed.

Approved February 20, 1879.

AN ACT

To establish the County of Carbonate, and to provide for Terms of Court therein.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That the county of Carbonate is hereby created and established with the legal capacity and functions of other counties of this state, and with the boundaries as follows: Commencing on the east boundary line of Lake county at a point where the northern boundary line of the southern tier of sections in township eleven, south of range eighty west, produced east would strike said eastern boundary line, and thence due west to the west boundary line of said Lake county; thence along said west boundary line to the northwest corner of said Lake county; thence along the north boundary line of said Lake county to the northeast corner of said county; and thence along the east boundary line of said Lake county to the place of beginning.

SEC. 2. All county and precinct officers who live in that part of Lake county that is hereby made Carbonate county shall hold their respective offices for the terms for which they may have been elected, and are hereby declared to be legal officers of Carbonate county; and the governor shall appoint such other officers as may be necessary to carry on the county government of said Carbonate county.

SEC. 3. At the next general election to be held in said Carbonate county, the county seat of said county shall be selected and established by a vote of the people of said

County seat to
be selected by
vote.

county, as provided in section twenty-two, chapter twenty-one, of the General Laws of the state.

County seat at
Leadville.

SEC. 4. Until such county seat is selected and established, as provided in section three (3) of this act, the town of Leadville shall be the county seat of said county, and at said town all terms of the district and county courts for said county shall be held, and the county offices of said county shall be kept.

Terms of court.

SEC. 5. There shall be held annually in said county six terms of the county court, commencing on the first Monday in the months of January, March, May, July, September and November.

Senatorial,
representative
and judicial
district.

SEC. 6. The county of Carbonate is hereby attached and made part of the thirteenth senatorial district, and of the fourth judicial district, and is also hereby attached to the counties of Lake and Gunnison, for representative purposes, and shall so remain until otherwise changed by law.

Transfer of
cases in courts.

SEC. 7. All suits, civil and criminal, now pending in the district and county courts of Lake county, wherein the cause of action accrued in the territory embraced in the new county of Carbonate, or wherein the defendant or defendants reside therein, shall be, as soon as the officers of said new county shall have been appointed and qualified, transferred by the clerks or judges of said county of Lake to the courts of the same jurisdiction in said new county of Carbonate.

Apportionment
of indebtedness.

SEC. 8. The boards of county commissioners of the said counties of Carbonate and Lake shall have full power and authority to adjust and settle all matters of revenue that it may be necessary to adjust and settle between said counties, on account of the formation of said county of Carbonate, and also to apportion the present indebtedness of said county of Lake between said counties of Lake and Carbonate, and for this purpose the board of county commissioners of either of the said counties may give at least ten days' notice in writing to the county commissioners of the other county, at any time after the officers of said counties of Carbonate and Lake shall have been appointed and

qualified, of the time when the boards of county commissioners of said counties shall meet for the purpose of adjusting said matters of revenue, and apportioning said indebtedness. Said meeting shall be held at the county seat of Lake county, and a majority of each of the boards of said counties named shall be a legal quorum to transact the business for which said meeting is held ; *Provided*, that in case there should not be a quorum present at said meeting, or in case the different boards fail to agree on the adjustment of revenue and the apportionment of indebtedness, the boards of county commissioners of each county shall each appoint one disinterested person, who shall, in connection with one other disinterested person, to be by them chosen, proceed to adjust and settle such matters of revenue and indebtedness, and the decision of a majority of such board of arbitrators shall be final. The expenses of such arbitration, if any shall be required, shall be paid in equal proportion by said counties of Carbonate and Lake.

SEC. 9. All records of instruments required to be recorded made in the office of the county recorder of Lake county, after the passage of this act and until the completion of the county organization of said county of Carbonate, shall have the same force and effect as if made in the office of the county recorder and in the records of said Carbonate county. All county records, or other county property, real and personal, heretofore belonging in or to the county of Lake, shall be and remain the property of said county. County records.

SEC. 10. Whereas, it is important that terms of court should be held at an early period on account of the important litigation pending in said county of Carbonate, and other interests of the people inhabiting said county require that this act take effect immediately upon its passage ; therefore, in the opinion of this General Assembly, an emergency contemplated by section nineteen, of article five, of the Constitution, exists, and this act shall take effect and be in force from and after its passage. Emergency.

Approved February 8, 1879.

AN ACT

To Change the Names of the Counties of Lake and Carbonate.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The name of the county of Lake is hereby changed to Chaffee, and the name of Carbonate county is changed to Lake county.

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act; it shall therefore be in force and effect from and after its passage.

Approved February 10, 1879.

AN ACT

To Strike off a portion of the County of Saguache, and to add the same to the County of Rio Grande.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That all that portion of the county of Saguache situate south of a line commencing where the tenth correction line crosses the first guide meridian east, New Mexico principal meridian; thence west along said tenth correction line thirty miles; thence north on the west line of township forty north, range four east, six miles; thence directly west to the east line of Hinsdale county, be and the same is hereby stricken off and added to the county of Rio Grande; *Providing, [Provided,]* the requirements of the constitution have been complied with.

Approved February 12, 1879.

AN ACT

Providing for Certain Entries to be made by County Clerks and Recorders in the Receiving Books and General Index kept by them

Be it enacted by the General Assembly of the State of Colorado :

SECTION 1. That in addition to the entries now required by law to be made by county clerks and recorders in the receiving book and general index kept by them, the county clerk and recorder shall also enter therein a statement or entry of all homestead [homesteads], satisfaction of mortgage [mortgages] or trust deeds, or other changes of the records of their office affecting or concerning real estate; *Provided*, that nothing in this act shall be construed to require the record of sale of land for taxes to be entered in the receiver's book or general index.

Entries to be made by County Clerks.

SEC. 2. For making the entry required by this act, ^{Fees.} county clerks and recorders shall be entitled to the same fees as are now allowed by law for similar service.

Approved February 8, 1879.

AN ACT

To amend an act entitled "An Act to Repeal all Existing Laws in relation to the Creation, Jurisdiction, Powers, Proceedings and Practice of the County Courts of the State of Colorado, and to Enact other Provisions in lieu thereof.

Be it enacted by the General Assembly of the State of Colorado :

SECTION 1. That section three of chapter twenty-three of the general laws of the State of Colorado in regard to county courts be, and is hereby repealed, and the following inserted in lieu thereof:

That there shall be held annually in each of the counties of Arapahoe, Weld, El Paso, Park, Saguache, Summit,

Terms of County Court.

Rio Grande and Lake, six terms of the county court, commencing on the first Monday in the months of January, March, May, July, September and November. In each of the remaining counties of the state there shall be held annually four terms of the said court, commencing on the first Monday in the months of March, June, September and December.

Approved February 12, 1879.

AN ACT

To amend the Criminal Code regarding the Form of Indictments.

Be it enacted by the General Assembly of the State of Colorado:

What shall be sufficient in indictments for murder or manslaughter.

That section 786 of the General Laws, section 186 of the criminal code, be amended by adding thereto as follows: "And in any indictment for murder or manslaughter it shall not be necessary to set forth the manner in which, or the means by which the death of the deceased was caused, but it shall be sufficient in every indictment for murder to charge that the defendant did feloniously, willfully, and of his malice aforethought, kill and murder the deceased; and it shall be sufficient in every indictment for manslaughter to charge that the defendant did feloniously kill and slay the deceased."

Said section, as amended, reading as follows:

Exceptions to form to be made before trial.

786 SEC. 186. All exceptions which go merely to the form of an indictment shall be made before trial, and no motion in arrest of judgment or writ of error shall be sustained for any matter not affecting the real merits of the offense charged in such indictment; no indictment shall be quashed for want of the words, "with force and arms," or of the occupation or place of residence of the accused, nor by the reason of the disqualification of any grand juror or grand jurors; and in any indictment for murder or man-

Certain defects not grounds for quashing.

slaughter it shall not be necessary to set forth the manner in which, or the means by which the death of the deceased was caused, but it shall be sufficient in every indictment for murder to charge that the defendant did feloniously, willfully, and of his malice aforethought, kill and murder the deceased; and it shall be sufficient in every indictment for manslaughter to charge that the defendant did feloniously kill and slay the deceased.

Approved January 27, 1879.

AN ACT

Making the Stealing of a Dog Larceny.

Be it enacted by the General Assembly of the State of Colorado:

That hereafter the stealing of a dog shall be larceny the same as the stealing of any other personal property.

Approved February 8, 1879.

AN ACT

To Define and Punish for the Obtaining of Money or Property by Confidence Games.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Every person who shall obtain, or attempt to obtain, from any other person or persons any money or property by means [of] or by the use of brace faro, or any false or bogus checks, or by any other means, instrument or device, commonly called confidence games, shall be liable to indictment, and on conviction shall be punished by imprisonment in the penitentiary for any term not less than one year nor more than ten years.

SEC. 2. In every indictment under this act it shall be deemed and held a sufficient description of the offence to

Penalty for practicing confidence games.

Description of offence in indictment.

charge that the accused did, on, etc., unlawfully and feloniously obtain, or attempt to obtain (as the case may be), from A. B. (here insert the name or names of the person or persons defrauded or attempted to be defrauded) his, her or their money (or property, in the case it be not money), his, her or their property, by means and by use of the confidence game.

SEC. 3. This act shall be liberally construed for the detection and punishment of offenders against the provisions of this act.

Approved February 4, 1879.

AN ACT

To amend an Act, entitled An Act to provide for and regulate the holding of the District Courts in the several Judicial Districts in the State, and the manner of commencing and adjourning the same, and Return of Process, and providing for Transfer of Causes therein, and for continuing Causes, Actions and Proceedings therein in case of adjournment, and to Repeal all other Acts in relation thereto.

Be it enacted by the General Assembly of the State of Colorado :

SECTION 1. That section one of said act be, and the same is hereby amended to read as follows :

Terms.

Terms of the district court in the respective judicial districts in the state shall, after February 8th, 1879, be held in said districts, at the county seats of the several counties therein, as the county seats now are or may hereafter be established, commencing on the days following in each and every year. That is to say :

IN THE FIRST DISTRICT.

First district.

In the county of Boulder, on the first Tuesday in May, after the year 1879, and on the first Tuesday in November.

In the county of Jefferson, on the second Tuesday in April and on the first Tuesday in October.

In the county of Gilpin, on the first Tuesday in March and on the first Tuesday in September.

In the county of Clear Creek, on the first Tuesday in June, and on the first Tuesday in January.

In the county of Grand, on the second Tuesday in July. The county of Routt to remain as now provided by law, attached to the county of Grand, for judicial purposes.

In the county of Summit, on the fourth Tuesday in July.

IN THE SECOND DISTRICT.

In the county of Arapahoe, on the first Tuesday in Second district. January, on the third Tuesday in April, and on the first Tuesday in September.

In the county of Elbert, on the first Tuesday in March.

In the county of Weld, on the third Tuesday in November.

In the county of Douglas, on the second Tuesday in December.

In the county of Larimer, on the fourth Tuesday in October.

IN THE THIRD DISTRICT.

In the county of Las Animas, on the first Monday in Third district. March, and on the first Monday in September.

In the county of Bent, on the fourth Monday in September.

In the county of Fremont, on the second Monday in April, and on the first Monday in November.

In the county of Pueblo, on the fourth Monday in April, and on the third Monday in December.

In the county of Custer, on the last Monday in May, and on the second Monday in October.

In the county of Huerfano, on the third Monday in January.

IN THE FOURTH DISTRICT.

In the county of Conejos, on the second Monday in Fourth district. June.

In the county of San Juan, on the second Monday in July, and on the fourth Monday in September.

In the county of Ouray, on the fourth Monday in July.

In the county of Hinsdale, on the second Monday in August, and on the second Monday in December.

In the county of Costilla, on the first Monday in June.

In the county of La Plata, on the first Monday in July.

In the county of El Paso, on the second Monday in April, and third Monday in October.

In the county of Gunnison, on the fourth Monday in August.

In the county of Chaffee, on the first Monday in January.

In the county of Lake, on the first Monday in September, and on the second Monday in January, and on the first Monday in May.

In the county of Park, on the fourth Monday in April, and on the first Monday in November.

In the county of Saguache, on the third Monday in November.

In the county of Rio Grande, on the fourth Monday in November.

In what manner
causes pending
to be proceeded
with.

SEC. 2. All causes, issues and proceedings, civil or criminal, now pending in the district court of any of the counties above named, either upon change of venue or otherwise, in which there has been service of process, including writs of attachment, publication or appearance by the several parties to any former term, or which may have been brought under the provisions of the code, shall be deemed and held to be pending at the first term of such court as fixed by this act, and may be regularly proceeded with at such term, in the same manner as though pending at the next regular term of such court as fixed by law before the passage of this act; and the transfer of a county from one judicial district to another shall not be construed

Transfer of
county from one
district to another
not to affect
causes pending.

to affect in any manner causes pending in the court of such county previous to the transfer.

SEC. 3. In any county wherein no term of the district court has heretofore been held, wherein the court has not been heretofore organized, it shall be the duty of the judge of the district wherein such county is situate, without delay, to appoint a clerk of the district court within and for such county; and the said clerk shall at once procure an office and a seal for said court, and such record books, furniture and supplies as may be necessary to the proper transaction of business, the expense of which shall be allowed as a claim against such county by the county commissioners, and be paid out of the county treasury as other bills against such county. The county commissioners shall also furnish a suitable room in which to hold said court from time to time.

Organization of court in counties where none has heretofore been held.

SEC. 4. Whenever in any civil cause, now pending and undetermined in the district court of any county to which another county has heretofore been attached for judicial purposes, and if it shall be made to appear by the affidavit of any one of the parties thereto, or the affidavit of the agent or attorney of any such party, to be filed with the papers in the cause, that the party defendant in the said cause, at the time of the commencement of the suit, was a resident of the county so attached for judicial purposes, or that the cause of action arose within the county so attached to the other for judicial purposes, the said cause shall at once be transferred to the district court of the county so heretofore attached, and the clerk of the court wherein said cause is now pending shall certify and transmit without delay all the papers in said cause to the clerk of the district court of the other county, together with certified copies of all orders therein, as in cases of change of venue in civil cases under existing laws; and his fees therefor shall abide the result of said suit; and any cause so transferred may be disposed of at the next term of said district court in county to which the same is so transferred; *Provided*, that notice of the said transfer shall have been given in writing to the party or parties who did not unite in said

Transfer of civil causes in counties heretofore attached to others for judicial purposes.

affidavit, or to the attorney or attorneys of such party or parties, at least ten days before the first day of such term, and this fact shall be made to appear to the court in a proper manner by affidavit.

Transfer of criminal causes in counties heretofore attached to others for judicial purposes.

SEC. 5. Any criminal cause or proceeding now pending and undetermined in the district court of any county to which another has been attached for judicial purposes, in which the defendant or defendants, at the time of the commencement of the prosecution, were liable to prosecution in the county so attached for judicial purposes, then the said cause shall at once be certified and sent by the clerk of said court wherein the same is pending to the clerk of the court in the county theretofore so attached, in the same manner as is provided by this act in civil actions; *Provided*, that an affidavit of the defendant, or one of them, be first filed in the cause, showing the existence of the fact necessary to authorize the said change; and said cause, when so transferred, shall be deemed and held pending in said court.

Jurors summoned to attend term herein postponed to be notified of postponement, and new venire to issue for such persons.

SEC. 6. That where petit or grand jurors have, previous to the passage of this act, been summoned to attend at a term of court in any county, which term is herein postponed, it shall be the duty of the sheriff of such county, as soon as practicable after the passage of this act, to notify such jurors by mail or otherwise, of such postponement, and a new venire may issue at the proper time, summoning such persons to appear and act as jurors at the first succeeding term of such court, as fixed by this act.

Repeal of conflicting acts.

SEC. 7. All acts and parts of acts in conflict with this act, be, and the same are hereby repealed.

Emergency.

SEC. 8. In the opinion of this general assembly an emergency exists, therefore this act shall take effect and be in force from and after its passage.

Approved February 10. 1879.

AN ACT

To amend Section One Hundred and Twenty-eight of an Act entitled "Elections," Chapter Thirty, of the General Laws.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section one hundred and twenty-eight, of chapter thirty, of the General Laws, be, and the same is hereby repealed, and that the following be enacted, to be numbered section one hundred and twenty-eight of said chapter, and to stand in lieu of the section hereby repealed, to-wit:

SEC. 128. If any person shall make an affidavit, as False swearing. provided in section one hundred and twenty-six of this act, for the purpose of causing the name of any person to be registered in any ward or precinct in this state, and shall in such affidavit state falsely the name of such person to be registered, or the fact of his having resided in such precinct or ward a sufficient length of time to entitle him to be so registered, or the place of his actual habitation or residence, or the fact of his age or of his residence within a sufficient time to entitle him to be registered, the person so making a false affidavit shall be deemed guilty of a willful and corrupt perjury, and on conviction shall be punished accordingly.

Approved February 8, 1879.

AN ACT

Entitled An Act to amend Section Four (4), of Chapter Thirty-one (31), of the General Laws of Colorado.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section four (4), of chapter thirty-one (31), of the General Laws of Colorado, entitled "An act to provide for the exercise of the right of eminent domain,"

be, and the same is hereby amended to read as follows, to-wit:

Summons and
publication of
notice.

Such summons shall be made returnable on such day and hour as the court or judge may fix and determine, not less than thirty days after the issuance of such summons, and the same shall be served in the same manner as in other cases, at least ten days before the return day thereof. When it appears that the owners, or any of them, of the property sought to be condemned, are non-residents, or have been returned by the sheriff of the county as not found, and in case said summons is so returned "not found," an affidavit shall likewise be filed in said cause by the plaintiff or his attorney, setting forth that the person making such affidavit had made diligent inquiry and had been unable to learn of the whereabouts of such person, the court or judge shall order a notice to be published in some newspaper published in said county, addressed to such owner or owners, in which notice shall be stated the name of the petitioner or petitioners, a full and accurate description of the property sought to be taken or condemned, the purpose for which such condemnation is asked, and the time and place when such owner or owners are required to appear, and the title of the court, or name of the judge, before whom said application is to be heard. The court or judge shall also fix and determine when said notice shall be made returnable, but in no case shall it be made returnable in less than thirty days, and the same shall be published at least four (4) times in some weekly newspaper before the return day thereof. If there shall be no weekly newspaper published in the county in which such proceedings are had, the court or judge shall direct that said notice be published in some newspaper named by him, published in the nearest convenient place to such county.

Emergency.

SEC. 2. Inasmuch as great delay is likely to occur in proceedings for securing the right of way for irrigation ditches and canals for want of the provisions of this bill, and the season of irrigation is near, it is the opinion of this General Assembly that an emergency exists, and therefore this act shall take effect from and after its passage.

Approved, February 19, 1879.

AN ACT

To amend Sections Ten and Eleven, of Article Four, of Chapter Thirty-three, entitled "Executive Department," of the General Laws of Colorado.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section ten (10) of article four (4) of chapter thirty-three (33), entitled "Executive Department," of the General Laws of Colorado, be and the same is hereby amended so as to read as follows, to-wit: Upon the presentation of any auditor's warrant for payment, the treasurer shall, if the same be not thereupon paid by him, endorse upon such warrant as follows:

"Presented (here insert date of presentation). No funds. This warrant draws interest from this date at the rate of eight per cent per annum. _____,

State Treasurer."

Form of endorsement on warrant.

The state treasurer shall sign said endorsement, and re-deliver to the bearer thereof.

SEC. 2. That section eleven (11) of said act, be and the same is hereby amended so as to read as follows, to-wit: If any state treasurer shall fail, neglect or refuse to keep such cash book as required by this article, or shall fail, neglect or refuse to enter therein any sum of money which may be paid to him by virtue of his office, or shall willfully make any false entry thereof, or fail, neglect or refuse to exhibit the same to any person desiring to inspect the same, or shall refuse to permit any person to examine such cash book at any reasonable hour of the day, or shall fail, neglect or refuse to issue such receipt or duplicate receipt, as required by this article, or shall make any false receipt of any money received by him by virtue of his office, or shall fail, neglect or refuse to render such monthly report of moneys received by him, by virtue of his office, in any month, as required by this article, or shall make any false report thereof, or shall fail, neglect or refuse to keep a "register of warrants," as required by this article, or shall

Penalty for failure of state treasurer to perform duties of office.

fail, neglect or refuse to endorse such warrant, as required by this article, or shall make any false entry of any such warrant in such register, or shall falsely endorse the same; or shall fail, neglect or refuse to permit any person to inspect and examine such register at any reasonable hour of the day at his office, or shall refuse or neglect to pay any such warrant in the order in which the same ought to be paid, or shall pay any such warrant, then [there] not then remaining in the treasury money sufficient to pay all warrants or orders drawn upon or payable out of the same fund, and previously presented; every such treasurer so offending shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars, and not exceeding one thousand dollars, and imprisoned until such fine is paid; and upon any such conviction, the court may adjudge that the treasurer so convicted be removed from his office.

Approved February 11, 1879.

AN ACT

To amend an act entitled an act to prescribe certain Powers and Duties of the Officers of the Executive Department, and certain Rules in Relation to the Fiscal Affairs of the State in connection therewith.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That the act entitled an act to prescribe certain powers and duties of the officers of the executive department, and certain rules in relation to the fiscal affairs of the state in connection therewith, be amended as hereinafter stated.

SEC. 2. Amend section one of article two of the act aforesaid, so that it shall read as follows:

SEC. 1. The secretary of state shall keep his office at the seat of government, and perform all the duties which may be required of him by law; he shall have charge of

Duties of Secretary of State.

and keep all the acts and resolutions of the territorial legislature and of the general assembly of the state, the enrolled copy of the constitution of the state, and all bonds, books, records, maps, registers and papers of a public character, which now are or may hereafter be deposited, to be kept in his office; and shall give a bond to the state of Colorado in the sum of ten thousand dollars, conditioned for the faithful discharge of the duties of his office, said bond to be approved by the governor and attorney general, and to be deposited in the office of the state treasurer.

Secretary to give bond;

SEC. 3. In all cases where the laws recognize a claim for money against the state, and no appropriations shall have been made by law to pay the same, the auditor shall audit and adjust the same, and when the said claim shall have been approved by the governor and attorney general, he shall give the claimant a certificate of the amount thereof, under his official seal, if demanded, and shall report the same to the General Assembly with as little delay as possible.

When no appropriation, claims to be approved by governor and attorney general.

SEC. 4. That section eight of article six of the act aforesaid be, and the same is hereby repealed.

Repeal.

Approved February 11, 1879.

AN ACT

To provide for the Purchase of Supplies for the Supreme Court, and the Executive and Legislative Departments of State, and for Renting Rooms for the same.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Fifty days immediately preceding each regular session of the general assembly the secretary of state shall advertise for four weeks successively, in some newspaper published at the state capital, for bids to provide the necessary furniture, stationery, fuel, light, and other

Secretary of state to advertise for bids for supplies, when.

articles required by the legislative and executive departments of the state, and the supreme court for the two years succeeding the first day of January next after such advertisement.

Bids, where delivered and how endorsed.

SEC. 2. The bids shall be delivered at the office of the secretary of state, endorsed "proposals for fuel," or "proposals for stationery," or proposals for other articles, as the case may be, and shall remain sealed until the hour specified in the advertisement for opening the same, and no bid shall be received after said hour.

Opening and determination of bids.

SEC. 3. At the hour specified for opening said bids, the secretary of state, in the presence of the attorney general and the state treasurer, and in the absence of either of them, in the presence of the governor, and in the presence of such bidders as may choose to attend, shall open the several bids, and proceed to determine who is the lowest responsible bidder for each class of supplies, and the contract or contracts therefor shall be given to such lowest responsible bidder, subject to the approval of the governor and the state treasurer; *Provided*, that the secretary of state may reject any or all bids, if he shall deem it for the best interest of the state to do so.

Limitation of price paid.

SEC. 4. The maximum price to be paid for any article purchased under such contract or contracts shall not exceed the current wholesale prices for such articles in the city of Denver on the day of opening the bids aforesaid.

Secretary to advertise immediately.

SEC. 5. Immediately after the approval of this act the secretary of state shall proceed to advertise for bids, and contract for the necessary supplies, as herein provided, which contract shall be held binding until the next regular contract, as provided in this act, shall be let.

Rooms and furniture.

SEC. 6. That it shall be the duty of the secretary of state to procure suitable apartments for the supreme court and the legislative and executive departments of the state, and to have the same supplied with such furniture and other articles as may be required.

Emergency.

SEC. 7. That whereas it is important that the contract provided for in section five of this act should be let at an

early day, therefore this act shall take effect and be in force from and after its passage.

Approved February 12, 1879.

AN ACT

Relating to Commutation of Sentences and Pardon [Pardons] after Conviction.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That all applications for commutation of sentence or pardon for crimes committed, and after conviction, shall be accompanied by a certificate of the warden of the penitentiary of the State of Colorado, showing the conduct of such applicant during his confinement in the penitentiary of said State of Colorado, together with such evidences of former good character as such applicant may be able to produce.

Good character previous to conviction and good conduct during confinement in the penitentiary of the State of Colorado, shall be given such weight as to the the governor may seem just and proper, in view of the circumstances of each particular case, a due regard being had to the reformation of the accused.

SEC. 2. That all acts or parts of acts inconsistent herewith are hereby repealed.

Approved February 13, 1879.

AN ACT

Requiring the Secretary of State to collect together certain Laws of the Territory of Colorado which may be in force after the session of the present Legislature.

Be it enacted by the General Assembly of the State of Colorado :

Secretary to
have printed cer-
tain special laws.

SECTION 1. The secretary of State is hereby authorized and required, within ninety days from and after the passage of this act, to collect together the following special laws of the Territory of Colorado, not printed in the General Laws of the State, to-wit: An act to regulate ditches used for farming purposes in the counties of Costilla and Conejos, approved February 5, 1866. Also an act that made applicable the provisions of the above act to Las Animas county, approved February 9, 1872. An act for the protection of growing crops in the counties of Las Animas, Huerfano, Costilla and Conejos, approved February 8, 1870. Also an act to amend an act for the protection of growing crops, approved February 3, 1874. An act concerning irrigation, approved February 12, 1874. An act prescribing the duties of county commissioners of Las Animas [county] in regard to establishing voting precincts, approved February 13, 1874. An act relating to practice before justices of the peace in the county of Las Animas, approved February 13, 1874.

To be printed
with session laws

SEC. 2. And that he be required to have the same printed, together with the laws passed at the present session.

Emergency.

SEC. 3. Inasmuch as no provision now exists for the revision of these laws, the General Assembly is of the opinion that an emergency exists requiring this act to take effect without delay; therefore this act shall take effect immediately upon its passage.

Approved February 12, 1879.

AN ACT

To provide for the Payment of Clerical Expenses in the office of Secretary of State.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The secretary of state is hereby authorized to employ additional clerical assistance for the purpose of writing up the records of his office, provided the amount paid for said additional service shall not exceed the sum of three hundred dollars for the year 1879, and three hundred dollars for the year 1880.

Secretary may employ extra clerical assistance.

SEC. 2. There is hereby appropriated out of any funds in the treasury, not otherwise appropriated, the sum of three hundred dollars for the year 1879, and the same amount for the year 1880, for the purpose specified in section one of this act, and the auditor is hereby authorized to draw his warrant in favor of the person performing such service, upon the certificate of the secretary of state setting forth that the labor has been performed.

Appropriations.

Approved February 6, 1879.

AN ACT

To authorize the State Treasurer to apply certain Moneys, belonging to the "General Revenue Fund," to the payment of Interest on State Warrants.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The state treasurer is hereby authorized and directed, on the passage and approval of this act, to pay, in accordance with the provisions of existing laws, interest on state warrants out of the general revenue fund, and charge the same to interest account on the books of the state treasurer.

State treasurer to pay interest on warrants from general revenue fund.

SEC. 2. Inasmuch as there is a large amount of money belonging to the general revenue fund in the state treasury, to apply in payment of state warrants, but the same cannot

Emergency.

be paid until the interest thereon be paid, and inasmuch as there is now no appropriation for the payment of interest on state warrants, and it is desirable to apply all the money in the state treasury to the payment of warrants, and stop interest on the same, it is the opinion of this General Assembly that an emergency exists, as contemplated in section nineteen (19), article five (5), of the constitution; therefore this act shall take effect from and after its passage.

Approved January 16, 1879.

AN ACT

Providing that the State Treasurer shall Countersign all Warrants issued by the Auditor of State, and keep a Record of the same.

Be it enacted by the General Assembly of the State of Colorado :

Treasurer to
countersign
warrants, etc.

SECTION 1. That the state treasurer shall countersign all warrants issued by the auditor, and shall keep a separate register from any now provided by law, wherein he shall keep a record of the number of all warrants issued, and to whom and when issued, and the amount of each warrant.

SEC. 2. That the auditor of state shall present all warrants hereafter issued and drawn by him to the state treasurer, who shall record the same as provided in section one of this act.

Warrants value-
less unless coun-
tersigned.

SEC. 3. All warrants not so recorded and countersigned shall be of no value, or in any way binding upon the state.

Approved February 8, 1879.

AN ACT

To amend An Act entitled An Act to provide for the Payment of Salaries to Officers of the Executive and Judicial Departments of the State of Colorado.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That the first paragraph of section two thousand four hundred and nineteen of chapter LXXXIX of the General Laws of the State of Colorado be, and the same is hereby amended so as to read as follows, to-wit:

The governor shall receive an annual salary of three thousand dollars, and shall be allowed a private secretary, at the salary of fifteen hundred dollars per annum. Salary of governor.

The secretary of state shall receive an annual salary of twenty-two hundred dollars, and shall be allowed a clerk, at an annual salary of twelve hundred dollars. Salary of Secretary of State.

SEC. 2. Whereas the salary of the private secretary under the present law is inadequate, it is the opinion of the General Assembly that an emergency exists, and therefore this act shall take effect from and after its passage. Emergency.

Approved February 10, 1879.

AN ACT

To amend Section Twelve (12) of Chapter Thirty-four (34) of the General Laws of the State of Colorado, entitled "An Act to Fix and Regulate the Fees Chargeable by County, Precinct and other Officers."

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The twenty-second paragraph of section twelve (12) of chapter thirty-four (34) of the General Laws of the State of Colorado, now in words and figures as follows: "For transporting prisoners, per mile, ten (10) cents, besides actual expenses exclusive of railroad and team fare" Fee for transporting prisoners.

necessarily incurred," is hereby amended so as to read as follows: "For transporting prisoners, per mile, fifteen (15) cents, besides actual expenses exclusive of railroad and team fare necessarily incurred."

Approved February 13, 1879.

AN ACT

To amend an act concerning Fences and Enclosures, Approved March 22, 1877.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section one of said act is amended to read as follows: The following shall be a lawful fence in the State of Colorado:

What shall constitute a lawful fence.

Post and board fences, made of sound posts not less than four inches in diameter, set substantially in the ground not more than eight feet apart, with three boards of one inch lumber, eight inches wide and not more than eight inches apart, or four boards one inch thick and six inches wide, not more than six inches apart, securely fastened with nails or otherwise; a three pole fence, with sound poles not less than two inches in diameter at the small end, with posts as above, one at each end and one in the center, or near the center, of each panel; a fence of three barbed wires, or two barbed wires and one plain wire, or four plain wires, with posts not less than five inches in diameter, and not over one hundred feet apart, with stays between not over six feet apart; *Provided*, that any division or road fence made of wires shall be deemed unlawful that contains a less number of wires than above described; all other fences made of boards, rails, poles, wires, stone, or hedge plants, or other material, which, upon evidence, shall be declared as strong and as well calculated to protect enclosures as those first described, shall be considered a lawful fence; and said plain

wires, as described in this section, shall be not less than No. 8, and all wires shall be kept properly stretched.

SEC. 2. All fences shall be not less than four feet in height.

Approved February 13, 1879.

AN ACT

To enable Fence Districts to Fund their Indebtedness.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. It shall be lawful for the commissioners of any fence district, organized under the laws of the Territory of Colorado, to fund the indebtedness of such district when authorized to do so as hereinafter provided.

Fence districts may fund indebtedness.

SEC. 2. All bonds issued by the authority of this act shall bear interest at a rate not exceeding ten per cent. per annum from their date until paid, and shall be payable at the pleasure of the district ten years after the date of their issuance; but they shall be absolutely due and payable twenty years after such date. The interest on said bonds shall be payable annually, and the interest and principal, when due, shall be payable at the office of the treasurer of the district issuing said bonds. Said bonds shall be coupon bonds, and the commissioners shall prescribe the form of said bonds.

Bonds; rate of interest on; when and where interest and principal payable.

SEC. 3. No bonds issued under the authority of this act shall be sold or disposed of at a less rate than the full face value of said bonds and accrued interest; but the commissioners may exchange said bonds for valid claims against said district upon the basis of giving an equal amount of bonds and accrued interest for the amount of such indebtedness. The proceeds arising from the sale of bonds issued under the provisions of this act shall be used for the purpose of paying the indebtedness of the district issuing said bonds, and for no other purpose; and no por-

Not to be sold or changed at less than par.

How proceeds of sale to be used.

tion of said amount shall be used for the purpose of paying any indebtedness incurred after January 1st, 1879.

Levy of tax to pay interest and redeem bonds.

SEC. 4. Whenever any fence district shall issue bonds, as provided in this act, it shall be the duty of the commissioners of such district to levy annually a tax upon the taxable property of the district sufficient to pay the annual interest upon said bonds, and in the year next preceding that in which said bonds are first made payable at the pleasure of the district, and annually thereafter until said bonds are all redeemed; the commissioners aforesaid shall levy in like manner a tax sufficient to redeem not less than ten per centum of such bonds.

Tax, how levied and collected.

All taxes for the payment of the interest and principal of the bonds aforesaid, shall be levied and collected in such manner as is now provided by law for the levy and collection of fence taxes.

If the commissioners of any fence district fail or neglect to levy taxes as hereinbefore provided on or before the day fixed by law for the annual levy of county taxes, then the county commissioners of the county in which such fence district is situated shall levy such taxes, and the county treasurer shall collect the same as other taxes are collected.

Money arising from levy how used.

SEC. 5. All moneys received by the treasurer of any fence district, arising from taxes levied for the payment of the principal or interest of the bonds aforesaid, shall be used in such payment, and for no other purpose until all such bonds are paid in full.

Redemption of bonds.

SEC. 6. When it shall appear to the commissioners of any district, upon an examination of the books and accounts of the treasurer, that there are sufficient funds in his hands to the credit of the redemption fund to pay in full the principal and accrued interest of any such bonds, it shall be the duty of such board immediately to call in and pay as many of such bonds and accrued interest thereon, as the funds ascertained to be on hand will liquidate; and said board shall thereupon cancel such redeemed bonds, and all uncanceled interest coupons issued therewith. The bonds

shall be called in and paid in the order of their issuance as nearly as may be practicable; and when it is desired to redeem any of such bonds by said board, they shall cause to be published for thirty days in some newspaper at or nearest the county seat of the county, a notice that certain district bonds (specifying the numbers and amounts) will be paid upon presentation, and at the expiration of such thirty days said bonds shall cease to bear interest.

SEC. 7. No bonds shall be issued under the provisions of this act, until the question of such issue shall have been submitted at a regular or special district meeting to such legal voters of said district as have paid a fence tax therein during the year next preceding such meeting. If a majority of such legal voters present at such meeting vote in favor of the issue of the bonds, then the commissioners of the district shall prepare and issue the said bonds without unnecessary delay.

Question of issue of bonds to be submitted to vote

Majority vote required to fund debt.

SEC. 8. All moneys coming into the hands of the county treasurer under the provisions of this act, shall be paid to the treasurer of the proper fence district, as is now provided by law, after deducting therefrom such amount as is by law allowed said county treasurer as a collection fee. All bonds and interest coupons redeemed or paid as herein provided, shall be fully cancelled by the officer paying the same, and, after being recorded in the district records, shall be destroyed by the commissioners of the district in open session.

Money, to whom paid.

Cancellation, etc. of bonds.

SEC. 9. At all meetings held in such districts, whether the same shall be general or special, when a vote is to be taken upon the question of issuing such bonds, a notice that at such meeting the question of issuing such bonds will be submitted to a vote of the legal electors of such district, shall be given by the commissioners of such district, which notice shall be published in a weekly newspaper printed in the county for four successive weeks next before the day of such meeting.

Notice of submission of question, how published.

Approved February 8, 1879.

AN ACT

To amend An Act entitled An Act relating to the Exemption of Volunteer Firemen as Jurors, and from Paying Poll Tax in the State of Colorado, and to Repeal certain Acts relating thereto.

Be it enacted by the General Assembly of the State of Colorado:

SECTION I. That section one (1) of chapter thirty-six (36), being general section number twelve hundred and thirteen (1213) of the General Laws of the State of Colorado, be amended so as to read as follows, to-wit:

Exemption of firemen from jury duty and payment of poll tax.

That any person who is now, or shall hereafter become a working member of any fire engine, hook and ladder, or hose company, or volunteer organization for the extinguishment of fires, now existing and under the control of the corporate authorities of any city or incorporate town within this state, or of any such organization which may hereafter be organized under and subject to the authorities of any city or town as aforesaid, shall, during the time he may continue a working member of such organization, be exempt from serving as a juror, and from the payment of a poll tax; and any member who shall have been a working member of any such organization in any city or town as aforesaid, and shall have faithfully discharged his duties as such for the term of five (5) years, shall be forever exempted from serving as jurors, and from the payment of a poll tax; *Provided, however,* that no person shall be so exempted, as

Certificate of service with company, evidence of exemption.

above specified, unless he produce the certificate, under oath, of the foreman of his company, which certificate shall set forth that such person has been for five years last past *bona fide* a working fireman, and not a so-called honorary member, of a regularly organized fire company; and, *provided further,* that no person shall be exempt from duty as a juror, unless he produce a certificate, under oath, of the foreman of his company, which certificate shall set forth that the person therein named is an acting and working fireman of the company to which he belongs; and such certificate shall entitle the person therein named to exemp-

tion from service as a juror, should such person wish to avail himself of such exemption; *and, provided further*, that the judge before whom such certificate is presented may examine such person, under oath, touching his services as such fireman, and, if he be thereupon satisfied that such person is a working fireman within the true intent of this chapter, he shall be discharged from jury duty.

Approved February 13, 1879.

AN ACT

To amend an Act entitled An Act to Prevent Fires on the Prairies.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section one of an act entitled "An act to prevent fires on the prairies," be so amended as to read:

SEC. 1. That every railroad corporation operating its line of road, or any part thereof, within this state, shall, between the fifteenth day of July and the first day of October of each and every year, upon each side of its line of road, plough, as a fire-guard, a continuous strip of not less than six feet in width, which said strip of land shall run parallel with said line of railroad, and be ploughed in such good and workmanlike manner as to effectually destroy and cover up the vegetation thereon, and be sufficient to prevent the spread of fires; and the outer line of said strip of ploughed land shall be upon the outer line of such corporation's right of way, or, if upon land owned by said corporation, one hundred feet on either side from the centre of the road; *Provided*, that such fire-guard need not be constructed within the limits of any town or city, nor along the line of a railroad running through the mountains, or over other lands where ploughing would be impracticable; *and provided further*, that whenever a majority of the board of county commissioners of any county through which any

Judge may examine person under oath.

Fire guards, manner of construction.

Where fire guard need not be constructed.

such railroad may pass shall certify in writing to the said railroad corporation operating such road, that in their opinion no necessity exists for ploughing such fire-guard over any portion of such county, designating the same as near as may be, such corporation shall not be required to plough a fire-guard over the ground so designated.

Approved February 11, 1879.

AN ACT

To amend an Act entitled "An act to provide for the Protection, Preservation and Propagation of Fish, etc.," approved March 10, 1877.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section one (1), of chapter thirty-seven (37), of the General Laws of Colorado, be, and the same is hereby, amended so as to read as follows, to-wit:

Taking and killing fish save by hook and line unlawful.

SEC. 1. That it shall not be lawful for any person to kill or take any trout, or other fish, in any of the public waters of this state, by the use of any poison or deleterious or stupefying drug, or by the use of any explosive substance, or by the erection of any weir, dam, or other artificial obstruction; or any speckled trout or food fish by the use of any net, seine, or device whatsoever, except by a hook and line; and it shall not be lawful to empty, or allow the emptying of sawdust into any of the public waters of this state containing food fish, or the depositing of the same within such distance that it may be carried into said waters by natural causes.

Erection and maintenance of fish ways.

SEC. 2. That section three (3), of chapter thirty-three (33), of the General Laws of Colorado, entitled "Fish," be stricken out, and in lieu thereof there be inserted the following words for section three (3) of said chapter: Any person or persons, or the officers and servants of any company or corporation, maintaining or keeping up any dam, weir, or other artificial obstruction, in or upon any stream

of water in this state, shall erect and keep up and maintain at such dam, weir, or other artificial obstruction, a sufficient sluice or fish-way for the free passage of fish up and down any such stream; *Provided, however*, that this section shall not be construed to apply to any stream of water that contains no food fish, nor to any stream of water the whole volume of which is needed for irrigating purposes.

SEC. 3. That section four (4), of chapter thirty-seven (37), of the General Laws of Colorado, be, and the same is hereby amended so as to read as follows, to-wit: SEC. 4. That it shall not be lawful to kill, take or have in possession any trout, or other food fish taken or killed in any of the public waters of this state during the months of December, January, February, March, April, May and June, or either of said months in any year, and the possession of trout or other food fish during the months above mentioned shall be *prima facie* evidence of the violation of the provisions of this section.

Months during which trout, etc., shall not be caught.

SEC. 4. That section five (5), of chapter thirty-seven (37), of the General Laws of Colorado, be, and the same is hereby amended so as to read as follows, to-wit: SEC. 5. Any person or persons, or the officers or servants of any company or corporation, convicted of violating any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than fifty dollars (\$50) nor more than three hundred (\$300) dollars.

Penalty for violation of this act.

SEC. 5. That all expense attending the actual shipment and distribution of ova, or young fry, which may be donated to this state by the United States fish commissioner, or by any state fish commissioner, shall be paid [by this state;] *Provided*, such expense shall not exceed the sum of one thousand dollars in any one year; and the [state] auditor is hereby authorized to draw his warrant on the [state] treasurer for such sums as are provided for by this act, upon the sworn statement of the fish commissioner.

Expenses of shipment, etc., of ova or young fry, how paid.

SEC. 6. That it shall be the duty of the fish commissioner to distribute in an equitable manner, to the different

Ova and young fry, how distributed.

portions of the state, such ova and young fry as may be received by him under the provisions of this act.

Repeal.

SEC. 7. That all acts or parts of acts in conflict herewith be, and the same are hereby repealed.

Emergency.

SEC. 8. As the time in which the beneficial effects of this act for the present season is fast passing away, and its good effects may thereby be postponed, therefore an emergency exists, and this act shall take effect and be in force from and after its approval by the governor.

Approved February 7, 1879.

AN ACT

Concerning Garnishment in Courts of Record and Before Justices of the Peace, on Judgments Rendered; and in Relation to the Proceedings and Practice in Garnishment.

Be it enacted by the General Assembly of the State of Colorado:

Garnishee process against debtor or defendant; proceedings

SECTION I. Whenever a judgment shall be rendered by any court of record or any justice of the peace in this state, and execution against the defendant or defendants in said judgment has been issued and delivered to the proper officer, and the officer after diligent search shall not be able to find property of the defendant or defendants in his county sufficient to satisfy the same, the officer shall, upon request of the plaintiff, his agent or attorney, summon such person or persons as the plaintiff may direct, as garnishees, to appear before the court or justice of the peace from which the execution issued; if before a court of record, the summons shall be made returnable and be served the same as other summonses in courts of record; if before a justice of the peace, the summons shall be made returnable within the same time and served in the same manner as ordinary

summons issued by justice of the peace. The summons may be in substance as follows, viz.:

A—— B——, Plaintiff, }
 vs. }
 C—— D——, Defendant, }
 To E—— F——, Garnishee:

Form of
summons.

You are hereby notified that you are attached as garnishee in the above entitled cause, and you are required not to pay any debt due or to become due, from yourself to the said C—— D——, and that you must retain possession and control of all personal property, effects and choses in action of the said C—— D——, in order that the same may be dealt with according to law. And you are hereby commanded to be and appear before (naming the court or justice, as the case may be) at ——, on the —— day of —— 18——, at —— o'clock, —— m., to answer what may be objected against you in that behalf.

_____,
 (Signed by officers).

Dated ——, 18——.

SEC. 2. It shall not be necessary that the officer shall have first returned his execution to the court or justice before serving said summons. The return of such summons to the court or justice, as the case may be, showing due service on the person or persons therein named as garnishees, shall be the commencement of proceedings against the said garnishees, and the court or justice shall examine and proceed against such garnishee or garnishees, served with summons, as hereinafter provided.

SEC. 3. Whenever any person shall be summoned as garnishee under any writ of attachment, or as provided in section one (1) of this act, the plaintiff, his agent or attorney, may direct the officer, at the time of serving the process, or thereafter, to take the answer of the garnishee, or whenever any person summoned as garnishee, as aforesaid, shall desire to exonerate himself from further liability or attendance at court, he may do so (except as otherwise provided in this act) by making and subscribing an answer.

SEC. 4. In all cases mentioned in the preceding section, the answer of the garnishee shall be under oath, in

writing, and the officer serving the writ of attachment, or garnishee summons, shall administer the oath, take the answer, and append the same to his return of the process served. The interrogatories and oath may be in substance as follows:

Form of interrogatories and oath.

1. Are you in any manner indebted to the defendant, C——— D———, either property or money, and is the same now due? If not due, when is the same to become due? State fully all particulars.

Answer.

2. Have you in your possession, in your charge, or under your control, any property, effects, goods, chattels, rights, credits or choses in action of said defendant, or in which he is interested? If so, state what is the value of the same, and state fully all particulars.

Answer.

3. Do you know of any debts owing to the said defendant, whether due or not due, or any property, effects, goods, chattels, rights, credits or choses in action, belonging to him, or in which he is interested, and now in the possession or under the control of others? If so, state the particulars.

Answer.

(Signature of garnishee.)

I, (insert the name of garnishee,) do solemnly swear (or affirm) that the answers to the foregoing interrogatories by me subscribed are true, so help me God.

(Signature of garnishee.)

Subscribed and sworn to before me, this _____, 18—.

(Signature of officer.)

Refusal to answer.

SEC. 5. If the garnishee refuses to answer fully and unequivocally all the foregoing interrogatories, he shall be summoned by the officer and required to appear before the court or justice as provided in section one (1) of this act,

and to answer before the court or justice all the interrogatories prescribed in the preceding section, and such other questions as the court or justice may think proper and right.

SEC. 6. After answer, the garnishee may pay to the officer the amount of money he so confesses to be due and owing by him to the defendant, and deliver to the officer the property and effects in his possession, charge or under his control, and thereupon be relieved from attendance at court unless further summoned. In such case, the officer shall receipt to the garnishee for the money and property received ; and if the action be attachment, he shall hold the same until the final determination of the suit, unless the same be of a perishable nature ; if the proceeding be upon judgment, as provided in section one of this act, the officer shall sell the property, giving the usual previous notice, as in othes cases, and apply the proceeds of sale and moneys so received from the garnishee, to the satisfaction of the execution in his hands against the defendant. Should there be any surplus money or property unsold in the hands of the officer after paying the cost of garnisheeing and satisfaction of the execution against the defendant, he shall pay and deliver the same to the defendant without delay.

SEC. 7. After answer of the garnishee, in any case, is made either before the officer, or in court, the plaintiff, his agent or attorney, may controvert the whole or any part of said answer, by filing in court, or before the justice, an affidavit traversing any of the facts set forth in such answer, (such affidavit may be upon information and belief) thereupon a *scire facias* shall issue and be served upon such garnishee (unless he be already in court) requiring him to appear before the court or justice upon a day named therein. Issue so joined without further pleadings shall be tried as other trials at law are conducted ; and if the finding of the court, or justice of the peace, or the verdict of the jury shall be against the garnishee, judgment shall be given against him in the same manner as if the fact had been admitted by him, with the costs of such trial, and the

Proceedings
after answer.

Plaintiff may
controvert
answer of de-
fendant, how.

Issue, how tried.

If verdict against
garnishee.

moneys or property in the hands of garnishee or officer shall be by the court applied to the payment of the plaintiff's judgment against the defendant. If the finding or verdict shall be in favor of the garnishee, he shall recover his costs against the plaintiff. And in case the garnishee admits indebtedness to the defendant, he shall not be liable for costs.

If verdict in favor of garnishee.

When conditional judgment rendered against garnishee.

SEC. 8. If any garnishee, having refused to answer before the officer, or summoned to appear as provided by the preceding sections, being duly served with process, as provided by this act, shall fail to appear at the time and place in the process fixed for his appearance, default may be taken against such garnishee, and a conditional judgment may be rendered against such garnishee for the full amount of the judgment rendered against the debtor in the original action and costs. Thereupon a *scire facias* may issue out of the court where such proceeding is pending, commanding such garnishee to appear at said court on the return day of said writ, and to show cause why such judgment should not be made final and conclusive, which said *scire facias* shall, if issued out of the district or county court, be returnable in twenty days, and shall be served upon such garnishee at least ten days before the return day, and if issued out of justice court, shall be returnable in five days from its issuance, and shall be served upon the garnishee at least three days before the return day, and if such garnishee shall fail to appear at such court or before such justice, on the return day of such *scire facias*, said conditional judgment shall be made final and conclusive.

How *scire facias* issued, and when returnable.

When conditional judgment to be final and conclusive.

Goods, etc., in hands of garnishee claimed by another person.

SEC. 9. If it appears that any goods, chattels, choses in action, credits or effects in the hands of a garnishee are claimed by any other person, by force of an assignment from the defendant, or otherwise, the court or justice of the peace shall permit such claimant to appear and maintain his right. The court or justice may, in its discretion, adjourn the case not exceeding five days, for the purpose of giving the claimant such notice as it may direct.

Claimant may be admitted as party to suit.

SEC. 10. If such claimant appears, he may be admitted as a party to the suit, as far as respects his title to the

property in question, and may allege and prove any facts not stated nor denied by the garnishee, and such allegations shall be made, tried and determined in the manner hereinbefore provided. If such person shall fail to appear, after having been served with notice in the manner directed, he shall nevertheless be concluded by the judgment in regard to his claim.

SEC. 11. Every garnishee shall be allowed to retain or deduct out of the property, effects or credits in his hands all demands against the plaintiff, and all demands against the defendant of which he could have availed himself if he had not been summoned as garnishee, whether the same are at the time due or not, and whether by way of set-off on a trial, or by the set-off of judgments or executions between himself and the plaintiff and defendant severally, and he shall be liable for the balance only after all mutual demands between himself and plaintiff and defendant are adjusted, not including unliquidated damages for wrongs and injuries; *Provided*, that the verdict or finding, as well as the record of the judgment, shall show in all cases, against which party, and the amount thereof, any set-off shall be allowed, if any such shall be allowed.

Deduction by garnishee of demands against plaintiff.

SEC. 12. No person shall be liable as a garnishee by reason of having drawn, accepted, made, or indorsed any negotiable instrument, when the same is not due, in the hands of the defendant at the time of service of the garnishee, summons, or the rendition of the judgment.

When persons not liable as garnishees.

SEC. 13. The judgment against a garnishee shall acquit him from all demands by the defendant for all goods, effects and credits, paid, delivered or accounted for by the garnishee by force of such judgment.

Judgment against garnishee

SEC. 14. If the person summoned as garnishee is discharged, the judgment shall be no bar to an action brought against him by the defendant for the same demand.

SEC. 15. When judgment is rendered against any garnishee, and it shall appear that the debt from him to the defendant is not yet due, execution shall not issue until the debt shall have become due.

Garnishee to deliver goods, etc., suffice.

SEC. 16. When any garnishee has any goods, chattels, choses in action, or effects other than money, belonging to the defendant, or which he is bound to deliver to him, he shall deliver the same, or so much thereof as may be necessary, to the officer who shall hold the execution in favor of the plaintiff, in the attachment suit or judgment, which shall be sold by the officer, and the proceeds applied and accounted for in the same manner as other goods and chattels taken on execution.

Proceedings in case goods are mortgaged or pledged.

SEC. 17. When it shall appear that such goods, chattels, choses in action or effects in the hands of a garnishee are mortgaged or pledged, or in any way liable for the payment of a debt to him, the plaintiff may be allowed, under an order of the court or justice of the peace for that purpose, to pay or tender the amount due to the garnishee; and he shall thereupon deliver the goods, chattels, choses in action and effects, in the manner before provided, to the officer who holds the execution.

Proceedings when goods are held for other purpose than to secure payment of money.

SEC. 18. If the goods, chattels, choses in action or effects are held for any purpose other than to secure the payment of money, and if the contract, condition or other thing to be done or performed is such as can be performed by the plaintiff without damage to the other parties, the court or justice of the peace may make an order for the performance thereof by him. Upon such performance, or a tender, the garnishee shall deliver the goods, chattels and effects, in the manner before provided, to the officer who holds the execution.

Goods, etc., how sold and money applied.

SEC. 19. All goods, chattels, choses in action and effects received by the officer under either of the two preceding sections shall be sold and disposed of in the same manner as if they had been taken on an execution in any other manner, except that from the proceeds of the sale the officer shall repay the plaintiff the amount paid by him to the garnishee for the redemption of the same, with interest thereon, or shall indemnify the plaintiff for any other act or thing by him done or performed, pursuant to the order of the court or justice of the peace, for the redemption of the same.

SEC. 20. If any garnishee refuses or neglects to deliver any goods, chattels, choses in action or effects in his hands when thereto lawfully required by the court or justice of the peace, or officer having an execution upon which the same may be received, he shall, if the proceeding be in a court of record, be liable to be attached and punished for contempt, or the court may enter up judgment for the amount of the plaintiff's judgment and costs, and award execution thereon against the garnishee, or, if the proceedings be before a justice of the peace, be liable to the plaintiff for the full amount of his judgment and costs against the defendant, and judgment may be entered against him therefor.

Refusal or neglect of garnishee to deliver goods or effects.

SEC. 21. The court or justice of the peace may order the costs of the proceedings in any garnishment to be paid by the plaintiff, or out of the effects or credits garnished, or by the garnishee, or may apportion the same as shall appear to be just and equitable. The garnishee shall be entitled to fees, where he does not resist or make costs when judgment is rendered against him, the same as witnesses before the same courts in civil cases.

How costs paid.

Fees of garnishee.

SEC. 22. All trials under this act, except as otherwise provided, shall be conducted as other trials at law, with or without jury; if the trial be in a court of record, then according to the practice in courts of record; if before a justice of the peace, then the same shall be conducted according to the practice in justice's courts; *Provided*, nothing contained in this act shall require either party to file written pleadings before a justice of the peace. If the finding of the court or justice, or verdict of the jury, in any case shall be against the garnishee, judgment may be entered against the garnishee in favor of the defendant for the use and benefit of the plaintiff.

How trials under this act conducted.

SEC. 23. An appeal may be taken from any judgment or final order of the court or justice of the peace, by any party to any proceeding under this act, in like manner as appeals are taken in other cases.

Appeals.

SEC. 24. The word "plaintiff," as used in this act, shall be construed to mean the judgment or execution creditor;

Construction.

the word "defendant," the judgment or execution debtor, and the word "officer," the sheriff, constable or other officer executing the process of the court or justice.

Repeal.

SEC. 25. All acts and parts of acts in conflict with this act be, and the same are hereby repealed.

Emergency.

SEC. 26. In the opinion of this General Assembly an emergency exists, as contemplated by section nineteen of article five of the constitution; therefore this act shall take effect immediately upon its passage.

Approved February 21, 1879.

AN ACT

In relation to Habeas Corpus.

Be it enacted by the General Assembly of the State of Colorado:

When county court or judge may issue habeas corpus.

SECTION 1. Any county court or county judge in this state is hereby authorized to issue the writ of *habeas corpus*, in all cases except when the petitioner shall be detained or imprisoned on a charge of having committed a felony, or is detained and imprisoned under a judgment or order of the district court; *Provided*, that no county court or county judge shall issue such writ when the supreme court, or district court, or any one of the judges of said courts, shall be in the county where such writ shall be issued, or when there shall be a term of the supreme or district court within such county within thirty days from the time of the application for said writ.

Manner of issuing and subsequent proceeding on.

SEC. 2. When the writ of *habeas corpus* shall be issued by any county court or county judge, it shall be issued, and all subsequent proceedings on such writ, shall be in the same manner as is now provided by law; and such county court or county judge shall have the same powers in such proceedings as are now given by law to the supreme court or district court, or any of the judges thereof.

Approved February 14, 1879.

AN ACT

To encourage the formation and establishment of a State
Historical and Natural History Society.

WHEREAS, The history of Colorado, being as yet un- Preamble
written, and existing now only in tradition or fragmentary
manuscripts of private individuals and of the public press;
and

WHEREAS, The natural history of Colorado, as repre-
sented by published essays of scientists and by preserved
specimens, is set forth only by organizations and museums
without the state, in this country and in Europe; and

WHEREAS, The opportunity, now so evident, for mak-
ing a permanent record of these essential elements of our
prosperity, is fast passing away, so that a few years hence,
both the men who have been the actors, and the material
for collections, will be quite beyond our reach; and

WHEREAS, It is believed that many valuable historical
papers, and specimens of our natural history, would be
contributed to a properly organized society; therefore, in
order to encourage and promote the advancement of these
material interests, and to establish a state museum—

*Be it enacted by the General Assembly of the State of Colo-
rado:*

SECTION 1. That whenever there shall be organized Provision for
room light, etc.
within the state, a state historical and natural history
society, composed of members of character and standing in
the state, it shall be the duty of the executive officers of
the state to permit it to use the supreme court or state
library room for its meetings and otherwise, furnished with
light and fuel; *Provided*, that such use shall not interfere
with the regular purpose for which such room is required.

SEC. 2. That there be and is hereby appropriated out Appropriation.
of any money in the state treasury, not otherwise appro-
priated, the sum of five hundred dollars, to assist the said
society to further the ends of its organization, as generally
set forth in the preamble hereof; *Provided, however*, that no
part of the money hereby appropriated shall be paid as

compensation to any officer or member of the society; and the state auditor shall draw his warrant on the state treasurer upon vouchers ordered paid by the society, attested by the signatures of the president and secretary, and approved by the superintendent of public instruction.

Shall not incur
debt.

SEC. 3. The said society is hereby prohibited from incurring any indebtedness of any kind whatever beyond the funds on hand in its treasury to meet the same.

Title to property
to rest in state.

SEC. 4. None of the provisions of this act shall inure to the benefit of the said society until it shall by irrevocable resolution or order declare that the title to all property acquired by it, either by purchase, gift or otherwise, shall absolutely vest in the State of Colorado; and such property shall thereupon vest in the state.

Approved February 13, 1879.

AN ACT

Concerning the Jurisdiction of County Judges and County Courts in cases of Injunction.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. No writ of injunction whatsoever shall be issued by any county court or county judge in this state, except to stay or control the proceedings and process in the county court out of which the injunction issues, or proceedings or process in justices' courts in matters which have been appealed to such county court.

SEC. 2. No writ of injunction shall issue out of the district court upon the order of either the county judge or county court in case of the absence of the district judge, which shall attempt to give mandatory relief in any case; or to restrain process or proceedings in any district court; or to restrain the enjoyment or working of any mine or mining claim.

SEC. 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved February 19, 1879.

AN ACT

To establish the Colorado Insane Asylum, and providing for its location.

Be it enacted by the General Assembly of the State of Colorado :

SECTION 1. There is hereby established the Colorado Establishment. Insane Asylum, for the treatment and cure of such persons as may become insane from any cause.

SEC. 2. The management of said asylum shall be by Management. a superintendent and a board of three commissioners, who shall together have full control thereof, as hereinafter provided. The superintendent and board of commissioners shall be appointed by the governor, and no more than one of said commissioners shall be appointed from the same judicial district, and the superintendent shall hold his position for the term of six years; and the commissioners first appointed shall hold, one for six years, one for four years, and one for two years, and afterwards each commissioner shall be appointed for the term of six years; so that one commissioner shall be appointed and hold for the full term of six years. The superintendent shall give a bond to the state, in the sum of three thousand dollars, conditioned that he will honestly and faithfully discharge all of his legal duties according to law. The superintendent shall be a regularly graduated physician, and he shall reside at the asylum. He shall receive a salary of two thousand dollars per annum, payable quarterly. The commissioners shall each receive a salary of six hundred dollars per annum, payable quarterly; and they shall hold regular meetings at the asylum each quarter, for the transaction of the business of the asylum. The superintendent and board of commissioners shall prescribe and publish such rules for the management of the affairs of the asylum and its inmates as experience and observation shall prove beneficial. They shall have power to employ all subordinates necessary to do the business of the asylum. The superintendent shall receive and discharge all persons placed in charge of the asylum under the provisions of this act. The board of commissioners

Requirements of superintendent.

Salary of supt. and commissioners.

Powers and authorities of supt. and commissioners.

shall not be required to act as such until the asylum is open for the reception of inmates, excepting as hereinafter specified. The superintendent shall be superintendent of construction of the asylum building, and shall have care of the grounds and everything belonging to the asylum, and he shall enter upon his duties as soon as he is appointed.

Salaries and expenses, and how paid.

SEC. 3. The salaries of all officers, employees, the expenses of the asylum, and all bills incurred in regard thereto authorized by law, shall be audited by the state auditor quarterly, and warrants therefor drawn upon the state treasurer, to be paid out of the insane fund.

Supt. to report annually to governor.

SEC. 4. The superintendent and board of commissioners shall make a report to the governor on or before the first day of December in each and every year, showing the condition of the asylum financially, the number, age, sex, occupation, residence, treatment and state of reform of all persons admitted from the date of the opening of the asylum, or from the date of the last report, together with such other facts and opinions as their experience and observation may prove and may be deemed of interest to the public; and the governor shall cause said reports to be published, and he shall present them to the next General Assembly.

Appointment of supt. and commissioners.

Commissioners to select site.

SEC. 5. It is hereby made the duty of the governor to appoint the superintendent and board of commissioners of the Colorado Insane Asylum immediately upon the passage of this act, and it shall thereupon become the duty of the said commissioners to select a site for the said asylum at or near the city of Pueblo, in the county of Pueblo, and State of Colorado, and such site to be not less than forty acres; *Provided*, that the site for said asylum shall be donated to the state by the citizens of Pueblo; and they are hereby authorized to receive gifts or otherwise of lands for the use and benefit of the state in reference to the site and building for said asylum. The site shall be susceptible of irrigation, and not too remote from good water, of sufficient quality and quantity to furnish a supply for all necessary use. Upon selecting such site, the said commissioners shall

report the facts as to the same to the governor, and he shall cause the title to be made to the state with as little delay as possible. The said commission may lease or build or purchase a temporary building for immediate use. The commissioners shall receive for their services herein named the sum of one hundred dollars each, and mileage of twenty cents for each mile traveled in the selection of such site. As soon as the site shall be selected and title made to the state, the superintendent shall cause proper designs and plans of the grounds and buildings to be made, and shall proceed to lease or construct temporary buildings, which shall be opened for use as speedily as practicable.

Title to be in state.

Compensation of commissioners.

Temporary buildings.

SEC. 6. There shall be levied and assessed upon all taxable property in the state, real and personal, for the creation and support of such asylum as herein provided, a tax of one-fifth (1-5) of a mill on each and every dollar, to be known as the insane tax; such revenue to be assessed and collected in like manner with other revenues of the state.

Tax amount how levied and collected.

SEC. 7. Whereas, the means resorted to in asylums of other states, and also the insane of this state, are now sent at great expense to remote places for treatment, we therefore believe that the cause of humanity and the greatest good to the whole people will be advanced by a speedy operation of this act, and, therefore, the emergency exists for this act to become a law immediately upon its passage.

Emergency.

SEC. 8. All acts and parts of acts in conflict with this, repugnant thereto, or inconsiderate [inconsistent] therewith, are hereby repealed.

Approved February 8, 1879.

AN ACT

To amend Chapter LXI. of the General Laws, concerning Lunatics.

Be it enacted by the General Assembly of the State of Colorado:

That section [sections] one, twenty-eight and twenty-nine, of Chapter LXI. of the General Laws, be and the same are hereby repealed, and the following inserted in lieu thereof:

Summoning of jury on inquisition of lunacy; appointment of conservator.

SECTION 1. Whenever any reputable person shall file a complaint, duly verified in the county court, alleging that any person is a lunatic or insane person, and that said lunatic or insane person has personal or real property, and is so insane or distracted in mind as to render such person incapable of properly and safely attending to and managing the same, the judge of said court shall thereupon order a jury of six jurors to be summoned to ascertain whether such person is so insane or distracted as to render him or her incapable and unfit to care for and manage his or her estate; and if said jury shall return in their verdict that such person is so insane or distracted in mind as to be incapable and unfit to take care of and manage his or her estate, it shall be the duty of said county court to appoint some fit person to be conservator of his or her estate.

Arrest of maniac or furiously insane person.

[SEC. 2.] Section 28. Whenever any reputable person shall file with the county court a complaint duly verified, alleging that any person is so insane or distracted in mind as to endanger his own person or property, or the person or property of another or others if allowed to go at large, the county court or judge thereof shall forthwith issue an order in the name of the people, directed to any sheriff or constable of said county for the apprehension of such alleged insane person, which order may be executed by any sheriff or constable of said county, or by any person specially appointed by said court to execute the same; *Provided*, that when any sheriff or constable shall find within his county any such insane person at large, it shall be his

duty to apprehend such insane person without an order of court. And when any alleged insane person shall be so arrested by, or without an order of court, he or she shall be taken forthwith before the county court, or judge thereof, and if the alleged insane person so elect, an inquest, as provided for in section one shall be held without delay; and until the determination of such inquest such alleged insane person shall be confined in the county jail or other convenient place. If upon such inquest it shall be found in the verdict of the jury that such alleged insane person is so insane or distracted in mind as to endanger his or her own person or property, or the person or property of another or others if allowed to go at large, it shall be the duty of the court, by an order to be entered of record, to commit such insane person to the county jail, or other convenient place, to be there confined until discharged on inquest, or otherwise disposed of according to law; *Provided*, Order for commitment that both before and after such inquest upon application of any relative or friend of such alleged insane person, and upon its satisfactorily appearing that the applicant is a suitable and proper person to have the custody of such alleged insane person, the county court shall order such alleged insane person to be delivered into the custody of such relative or friend; *Provided further*, Proviso that the complaint mentioned in section one may be joined with the complaint mentioned in this section; and when both complaints shall be on file in the court at the same time, one inquest shall determine the matters charged in both complaints.

[SEC. 3.] Section 29. No inquest of lunacy shall be Notice of inquest held until at least ten days' previous notice shall have been given to the alleged lunatic, and to the guardian *ad litem* to be appointed by the court, by citation issuing out of the county court, setting forth the substance of the complaint, and the time and place when and where such inquisition will be held, and requiring the alleged lunatic to attend, unless the alleged lunatic shall waive such notice and elect that the inquest shall be sooner held; *Provided*, that every inquest concerning the lunacy of any person shall be brought and conducted in the name of the people; *Pro-*

vided further, that no inquest shall be had as to the lunacy of any person charged with a criminal offense until like notice has been given to the district attorney or other officer charged by law to prosecute such offense, and that nothing in this chapter shall be so construed as to exempt the relatives and next of kin to any insane pauper from their liability for his or her support; and all moneys expended by any county for the maintenance of any such insane person, under the provisions of this chapter, may be recovered of the person or persons who are, or may be, liable by law for his or her maintenance.

Emergency.

SEC. 4. In the opinion of the General Assembly an emergency exists; therefore this act shall take effect and be in force from and after its passage.

Approved February 14, 1879.

AN ACT

To Suppress Intemperance.

Be it enacted by the General Assembly of the State of Colorado:

Liability of person selling or giving liquor to drunkard.

SECTION 1. Every husband, wife, child, parent, guardian, employer or other person who shall be injured in person or property, or means of support, by any intoxicated person, or in consequence of the intoxication of any person, shall have a right of action, in his or her name, against any person or persons who shall, by selling or giving away intoxicating liquors to any habitual drunkard, have caused the intoxication, in whole or in part, of such habitual drunkard; and all damages recovered by a minor, under this act, shall be paid either to such minor or to his or her parent, guardian or next friend, as the court shall direct; and the unlawful sale or giving away of intoxicating liquors as aforesaid, shall work a forfeiture of all rights of the lessee or tenant under any lease or contract of rent upon the premises; *Provided, however*, that no liability shall be held to accrue against any such person or persons as here-

Unlawful selling, etc., to forfeit rights of lessee. Proviso

inbefore provided unless and until the husband, wife, child, parent, guardian or employer shall first have notified (by written or printed notice) such person or persons, or his or their agents or employe, not to sell or give away any intoxicating liquors to any habitual drunkard.

SEC. 2. If any person or persons shall procure, or Penalty for procuring liquor for drunkard. cause to be procured any intoxicating liquors, of any kind whatever, for any habitual drunkard, knowing him to be such, [he or they] shall, on conviction, be fined in any sum not less than one hundred nor more than three hundred dollars, or [punished] by imprisonment for a term not less than three nor more than twelve months, or by both such fine and imprisonment.

Approved February 11, 1879.

AN ACT

To amend Section Sixteen, of Article Seven, of Chapter Thirty-three, and Section Four, of Chapter Forty-nine, of the General Laws of Colorado.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section sixteen (16) of article seven Rate of interest on state warrants (7), of chapter thirty-three, of the General Laws of Colorado, be, and the same is hereby amended so as to read as follows, to-wit: "Section 16. All state warrants issued by the proper authorities of the state, from and after the passage of this act, shall draw interest from and after the date of their presentation, at the rate of eight per cent. per annum until the time directed in the next succeeding section."

SEC. 2. That section four (4), of chapter forty-nine Rate on county orders and warrants, state certificates of indebtedness, etc. (49), of the General Laws of Colorado, be, and the same is hereby amended so as to read as follows, to-wit: "Section 4. County orders and warrants, and other like evidences, or certificates of indebtedness (except state warrants and

County treasurer
to indorse rate
on orders and
warrants.

certificates of indebtedness, which shall draw interest at the rate of eight per cent. per annum), shall bear interest at the rate of ten per cent. per annum from the date of the presentation thereof for payment at the treasury where the same may be payable, until there is money in the treasury for the payment thereof, except as in special cases otherwise provided by law; and every county treasurer to whom any such order or warrant is presented for payment shall endorse thereon the rate of interest said order or warrant will draw and the date of such presentation, and subscribe such endorsement with his official signature."

Emergency.

SEC. 3. As it is essential to the best interests of the state that all unnecessary expenses of carrying on the state government be curtailed as speedily as possible, this act shall take effect and be in force from and after its passage.

Approved January 24, 1879.

AN ACT

To regulate the use of Water for Irrigation, and providing for settling the Priority of Right thereto, and for Payment of the Expenses thereof, and for Payment of all Costs and Expenses incident to said regulation of use.

Be it enacted by the General Assembly of the State of Colorado:

Board county
commissioners to
hear applications

SECTION 1. The county commissioners of each county shall, at their regular January session in each year, hear and consider any and all applications which may be made to them by any party or parties interested in procuring water for irrigation by purchase from any ditch or reservoir furnishing and selling water, or proposing to furnish water for sale, the whole or upper part of which shall lie in such county, which application shall be supported by such affidavit or affidavits as the applicant may see proper to present, showing reasonable cause for such board to proceed to fix the price of water to be thereafter sold from such

Applications to
be supported by
affidavits.

ditch or reservoir, and such board of commissioners shall, upon examination of such affidavit or affidavits, or from the oaths of witnesses in addition thereto, find that the facts sworn to show the application to be in good faith, and that there is reasonable grounds to believe that unjust prices are, or are likely to be, charged for water from such ditch or reservoir, they shall enter an order fixing a day, not sooner than forty days thereafter, nor later than the third day of the regular session of their board, when they will hear all parties directly or indirectly interested in said ditch or reservoir, or in procuring water therefrom for irrigation, who may appear, as well as all testimony by witnesses, or depositions taken on notices, as hereinafter provided, touching the said ditch or reservoir, and the cost of furnishing water therefrom, at which time all persons or corporations interested in said ditch or reservoir, as well as all interested in obtaining water therefrom, or in lands which may be irrigated therefrom, may appear by themselves, their agents or attorneys, and said commissioners shall then proceed to take action in the matter of fixing such price of water, provided the applicant shall, within ten days from the time of entering such order, cause a copy thereof, duly certified, to be delivered to the owner of such ditch or reservoir, if it be owned by one person, or each of the owners, if it be owned by several persons, or to the president, secretary or treasurer of the company, if it belongs to a corporation or association having such officers, or if such owner cannot be found, he shall cause such copy to be left at his usual place of residence, with some person or member of his family residing there, and over fourteen years of age, and if such ditch officer cannot be found, he shall cause such copy to be left at the office or place of business of the company of which he is such officer, or at his residence, if such company have no place of business, and if such ditch is owned by several owners, not an incorporated company, it shall be sufficient to serve such notice by delivering one such copy each to a majority of them, and such applicant shall make affidavit of the manner in which such copy or copies have been served. Depositions mentioned in section

Board to fix a day for hearing all parties interested.

How service made upon owner of ditch.

Depositions, before whom taken.

Board to hear testimony.

May subpoena witnesses, and compel production of books, &c.

May adjourn from time to time.

May fix price of water.

Price fixed not to affect contracts.

Rights of purchasers.

one hereof, to be used before said commissioners, shall be taken before any officer in the state authorized by law to take depositions, upon reasonable notice being given to the opposite party of the time and place of taking such depositions.

SEC. 2. Said board shall hear and examine all legal testimony or proofs offered by any of the parties interested as before mentioned, as well concerning the value of the construction of such ditch or reservoir as the cost and expense of maintaining and operating the same, and all matters which may affect the just price and value of water to be furnished therefrom; and they shall have power to issue subpoenas to witnesses and compel their attendance, which subpoenas shall be served by the sheriff of the proper county when required; and also to compel the production of books and papers required for evidence in as full and ample a manner as the district court now has. They may adjourn the hearing from time to time to further the ends of justice or suit the general convenience of parties. Upon hearing an [and] considering all the matters and facts involved in the case, the board of commissioners shall enter an order naming and describing the ditch or reservoir with sufficient certainty, and fixing a just price upon all water to be thereafter sold, which price shall not be thereafter changed oftener than once in two years; *Provided*, that no price so fixed shall effect [affect] the rights of parties, or their lawful assignees or grantees, who may have contracts with the company, association or person owning such ditch or reservoir, or their lessees, grantees or successors, nor the rights of such owners, lessees or grantees under such contract, nor shall it in any way affect or hinder the making of such contract.

SEC. 3. Any person or persons, acting jointly or severally, who shall have purchased and used water for irrigation for lands occupied by him, her or them, from any ditch or reservoir, and shall not have ceased to do so for the purpose or with intent to procure water from some other source of supply, shall have a right to continue to purchase water to the same amount for his, her or their lands, on paying or tendering the price thereof fixed by the county

commissioners as above provided, or, if no price shall have been fixed by them, the price at which the owners of such ditch or reservoir may be then selling water, or did sell water during the then last preceding year. This section shall not apply to the case of those who may have taken water as stockholders or shareholders after they shall have sold or forfeited their shares or stock, unless they shall have retained a right to procure such water by contract, agreement or understanding, and use between themselves and the owners of such ditch, and not then to the injury of other purchasers of water from, or shareholders in [the] same ditch.

SEC. 4. If at any time, any ditch or reservoir from which water is or shall be drawn for irrigation shall not be entitled to a full supply of water from the natural stream which supplies the same, the water actually received into and carried by such ditch, or held in such reservoir, shall be divided among all the consumers of water from such ditch or reservoir, as well as the owners, shareholders or stockholders thereof, as the parties purchasing water therefrom, and parties taking water partly under and by virtue of holding shares, and partly by purchasing the same, to each his share *pro rata*, according to the amount he, she or they (in cases in which several consume water jointly) shall be then entitled, so that all owners and purchasers shall suffer from the deficiency arising from the cause aforesaid each in proportion to the amount of water to which he, she or they should have received in case no such deficiency of water had occurred.

SEC. 5. That the lands now irrigated, or which may be hereafter irrigated from ditches taking water from the following described rivers or natural streams of the State of Colorado, are hereby declared to constitute irrigation districts:

SEC. 6. That district No. One shall consist of all lands irrigated from ditches from the South Platte river, between its intersection with the state line of Colorado and Nebraska, and the mouth of the Cache-la-Poudre. District No. 1.

SEC. 7. That district No. Two shall consist of land District No. 2.

irrigated from ditches taking water from the South Platte river and its tributaries, except Big Thompson, St. Vrain and Clear Creek, between the mouth of the Cache-la-Poudre and the mouth of Cherry Creek.

District No. 3. SEC. 8. That district No. Three shall consist of all lands irrigated from ditches taking water from the Cache-la-Poudre and its tributaries.

District No. 4. SEC. 9. That district No. Four shall consist of all lands irrigated from ditches taking water from the Big Thompson and its tributaries.

District No. 5. SEC. 10. That district No. Five shall consist of all lands irrigated from ditches taking water from the St. Vrain Creek and its tributaries, except the Boulder, its tributaries, and Coal Creek.

District No. 6. SEC. 11. That district No. Six shall consist of all lands irrigated from ditches taking water from the Boulder and its tributaries, and Coal Creek.

District No. 7. SEC. 12. That district No. Seven shall consist of all lands irrigated from ditches taking water from Clear Creek and its tributaries.

District No. 8. SEC. 13. That district No. Eight shall consist of all lands irrigated by ditches taking water from Cherry Creek, Plum Creek and Platte River, and their tributaries, except Bear Creek, above district No. Two, and below the forks of the north and south branches of the South Platte river.

District No. 9. SEC. 14. That district No. Nine shall consist of all lands irrigated by ditches taking water from Bear Creek and its tributaries.

District No. 10. SEC. 15. That district No. Ten shall consist of all lands irrigated from ditches taking water from the Fountain and its tributaries; *Provided*, that said district shall not extend beyond the limits of El Paso county.

Other irrigation districts may be formed from time to time by the governor, on petition of parties interested.

Governor to appoint one water commissioner for each district.

SEC. 16. There shall be one water commissioner for each of the above-named districts, and for each district hereafter formed, who shall be appointed by the governor,

to be selected by him from persons recommended to him by the several boards of county commissioners of the counties into which water districts may extend, and the water commissioner so appointed shall hold his office until his successor is appointed and qualified. The governor shall, by like selection and appointment, fill all vacancies which may be occasioned by death, resignation or continued absence from the district, removal or otherwise. Said county commissioners may, from time to time, recommend persons to be appointed as above provided, and the governor may at any time remove any water commissioner, in his discretion.

SEC. 17. That within ten days after his appointment and before entering upon the duties of his office, such water commissioner shall take and subscribe the oath of office prescribed by the constitution of this state. Commissioner to take oath

SEC. 18. It shall be the duty of said water commissioners to divide the water in the natural stream or streams of their district among the several ditches taking water from the same, according to the prior rights of each respectively; in whole or in part to shut and fasten, or cause to be shut and fastened, by order given to any sworn assistant sheriff or constable of the county in which the head of such ditch is situated, the head-gates of any ditch or ditches heading in any of the natural streams of the district, which, in a time of a scarcity of water, shall not be entitled to water by reason of the priority of the rights of others below them on the same stream. Duty of water commissioners.

SEC. 19. For the purpose of hearing, adjudicating and settling all questions concerning the priority of appropriation of water between ditch companies and other owners of ditches drawing water for irrigation purposes from the same stream or its tributaries within the same water district, and all other questions of law and questions of right growing out of or in any way involved or connected therewith, jurisdiction is hereby vested exclusively in the district court of the proper county; but when any water district shall extend into two or more counties, the district court of the county in which the first regular term after the first day District court to have jurisdiction of all questions of priority of water rights, etc.

Jurisdiction when water districts extend into two or more counties.

of December in each year shall soonest occur, according to the law then in force, shall be the proper court in which the proceedings for said purpose, as hereinafter provided for, shall be commenced; but where said proceedings shall be once commenced, by the entry of an order appointing a referee in the manner and for the purpose hereinafter in this act provided, such court shall thereafter retain exclusive jurisdiction of the whole subject until final adjudication thereof is had, notwithstanding any law to the contrary now in force.

District judge to
appoint referee,
when.

SEC. 20. On or before the fifth day of July, A. D.

Referee to take
oath.

1879, the judge of the district court having jurisdiction over any water district, for the purpose provided above in this act, shall appoint and cause to be entered by the clerk of the district court an order appointing some discreet and competent person a referee of said court for the purpose of taking testimony and proofs in such water district. Said referee shall take an oath in writing, to be subscribed by him and filed with the clerk of said court, in substance the same as prescribed by law to be taken by officers, and shall receive a certified copy of such order, and immediately pro-

Notice of taking
proof, how given.

ceed to give notice by printed notices, posted in not less than ten public places in such water district, and also by publication not less than four weeks in a public newspaper published in each of the counties into which such water districts [district] extends, in which such a paper may be published, which notices shall be posted, and which newspaper publication shall be commenced not less than four weeks before the time mentioned in the same for commencing the taking of depositions, and which shall state the times and places at which the said referee shall attend in said water district to take and certify proof concerning the priority of right of all the ditches in the district, and notify all persons interested in said matter to be present and exhibit proofs of their claims. The number of places and their location shall be such as in the opinion of such referee will best suit the convenience of the people of the district, and said referee shall attend at the time and places specified in said notices, and proceed to take such proofs touching

the priority of right connected with each district ditch or reservoir as may be offered.

SEC. 21. All persons or corporations interested, or Parties in interest to attend before referee. claiming any interest in any ditch or reservoir, shall attend by themselves, their agents or attorneys before said referee at some one or more of the times and places so appointed by him, and shall have right to offer any and all proofs they may deem advisable for their interests. He shall have Powers and duties of referee. power to administer oaths and issue subpoenas for witnesses, and subpoenas *duces tecum*, which subpoenas may be served by any sheriff, deputy sheriff or constable, or by any party, and may require the witness to appear at any of the places so appointed as aforesaid. He shall permit all witnesses to be examined by the party calling him or by his counsel, and shall be cross-examined by any party claiming an interest in the matter in question, and shall take the testimony in writing, and shall note all objections offered to the testimony of any witness, or any part thereof, with the cause assigned for such objection, and shall proceed in all other respects as in other cases of taking depositions. He shall certify all books and papers offered by any one in his own behalf, and transmit them, with the testimony offered concerning them; and in case of books or papers produced in evidence which shall not be under the control of the party desiring the evidence, said referee shall make a true copy of all parts demanded, and certify the same, and transmit such copies, together with the proofs concerning such books and papers, as part of the evidence in the case.

SEC. 22. Proof of notice being duly given of the time Proof of notice being duly given, how made. and place of taking the depositions and proofs above provided for by said referee, shall be made by affidavit of said referee, setting forth a true copy of such notice, and how, and when, and for what length of time, and where the same was posted or published, together with the certificate of the publisher of any paper in which the same may have been published, showing when and how long the same was published, and the number of insertions thereof in such paper. The printer's fee for publishing said notice shall be the

same as is now or may hereafter be allowed by law for publishing notices in cases of attachment in counties of the class of that in which said paper may be published, to be paid by the county in which such paper may be published, and shall be allowed by the county commissioners thereof on the publisher's certificate, verified by oath.

Person or corporation refusing to produce books, etc.

SEC. 23. No person or corporation willfully refusing to produce any book or paper when required for examination and copying when in his or their power to do so, shall be allowed the benefit of any testimony or proof in his or their behalf on the final adjudication of the court, if the judge be satisfied from all the evidence offered for the purpose that such refusal was willful.

Referee to examine witnesses touching matters in question.

SEC. 24. Said referee shall also examine all witnesses to his satisfaction touching any point involved in the matters in question, and shall ascertain, as far as possible, the date of the commencement of each ditch, together with the original size and grade thereof, the date and size of each enlargement, the amount of water carried therein, the time spent in such construction or enlargement, and the diligence with which the work was prosecuted, the nature of the work as to difficulty of construction, and such other facts as may tend to show compliance with the law in acquiring the priority claimed for such ditch, and upon all the data so obtained, the court shall determine the order of priority among all the ditches, and the volume or amount of water lawfully appropriated, as well by the construction as by the enlargement of each ditch, and the time when each several appropriation by construction or enlargement took effect.

Disturbance of proceedings.

SEC. 25. Every person present before such referee at any time when he shall be engaged in hearing testimony, who shall willfully disturb the proceedings, and any person who shall willfully refuse or neglect to obey any subpoena issued by such referee when his lawful fees shall be tendered him for his attendance before the referee, shall be guilty of contempt, and on complaint under oath of the referee or other person before the district court or judge

Penalty.

thereof, may be brought before the court or judge, and dealt with as in other cases of contempt of said court.

SEC. 26. Every witness produced, or who shall attend Fees of witnesses before said referee under subpoena, shall be entitled to the same fees and mileage as witnesses before the district court in counties of the first class, the same to be paid by the party requiring his testimony.

SEC. 27. The said referee shall take all the testimony Referee may adjourn hearing. which may be offered, and for that purpose shall give reasonable opportunity to all parties to be heard, and may at any place, when the time limited thereat shall expire, adjourn the further taking of testimony then proposed to be offered to the next place in order, according to said published appointments, and at the last place may continue until all testimony shall be taken, or make further appointments at any of the former places, or such other suitable places as may seem best and most convenient for all parties, giving reasonable notice thereof, and upon closing the testimony shall return the same, together with an abstract To return testimony, etc., to court. thereof, for the use of the court, and report of his actings and doings in the premises, that the court may see how the intent of the provisions hereof have been carried out by him, and shall notify the judge, if the court be not in session, of his filing his report.

SEC. 28. Every person, association or corporation When person or corporation in interest barred. failing, neglecting or refusing to appear and make proof of his, her or their claim before said referee at the times and places appointed by him as above provided, shall be thereafter forever barred from making any claim to priority against all or any of the claimants who do appear and make proof of their claims before such referee, unless for good Time extended, when. cause shown to the court or judge before whom the matter is pending, and before the rendering of the final decree aforesaid, he, she or they shall obtain a rule on all the parties who may have offered proof before such referee, providing what notice shall be given them, and appoint a time to hear such evidence, and all costs occasioned by such application Costs to be paid by applicant. shall be paid by such applicant, and the court or

Court may require security for costs by cost bond.

judge thereof, in vacation, may require security for such costs at any time by cost bond in the ordinary form, which shall be sufficient to bind the parties thereto in all cases, and have the same effect as cost bonds in other cases provided by law.

New districts.

SEC. 29. The governor shall, upon the creation of any water district hereafter, as provided in this act, immediately notify the judge of the district court of the proper county of the creation of such district, and said judge shall thereupon, within thirty days after receiving such notice, cause an order to be entered appointing a referee in such district, and proceedings shall be thenceforth had as in case of districts immediately established by this law.

Decree of court or judge to determine priority, etc.

SEC. 30. The court, or judge thereof in vacation, shall proceed without unnecessary delay to examine all the testimony, and shall cause to be entered a decree determining the several priorities of the several ditches and reservoirs concerning which testimony has been offered, each according to the date of the construction and enlargement thereof, with the amount of water which it shall be held to have appropriated by said construction and enlargement; and the court, or judge in vacation, shall further order that each party owning or claiming any such ditch shall receive from the clerk, on paying a fee therefor, to be fixed by the judge, a certificate showing the date and amount of the appropriation of water adjudged in his behalf by construction and enlargement, which certificate the said owner or claimant shall exhibit to the water commissioner, when he shall commence the exercises [exercise] of his duties; and said water commissioner shall keep a book, in which he shall enter a brief statement of the contents thereof, and shall deliver the same to his successor. Said certificate may be recorded in the records of the county in which the ditch it relates to shall have its head gate, and said certificate and said record, or a certified copy thereof, shall be evidence of so much of said decree as is recited therein in any suit in which the same may be relevant.

Certificate of clerk relative to decree.

Duty of water commissioners.

Certificate may be recorded in county records.

Fees of referee.

SEC. 31. Said referee shall be entitled to demand and receive in payment for his services in taking testimony the

same fees as are now allowed by law to officers taking depositions in counties of the second class, and for each ditch concerning which any evidence is offered on behalf of the owners or claimants thereof, the sum of seventy-five cents for every foot in width of the head-gate thereof, which fees shall be paid in all cases by the party offering the evidence, before the referee shall be compelled to make return of the testimony offered by him or them to the court.

SEC. 32. The district court, or the judge thereof in vacation, shall have power to make any and all orders and rules which may be necessary and expedient for the carrying out of the intent of this act, as well touching the proceeding in said court as the acts and doings of said referee, and also for the purpose of securing to any party feeling aggrieved by the acts of such referee or the decree of the court opportunity for redress; and this act in all courts shall be liberally construed in favor of securing to all persons interested in any proceeding hereunder the just determination of their rights.

Court or judge shall have power to make necessary orders.

This act to be liberally construed.

SEC. 33. The district court, or judge thereof in vacation, shall have power to order, for good cause shown, and upon terms just to all parties, and in such manner as may seem meet, a re-argument or review, with additional testimony of any decree made under the provisions hereof, whenever it shall find from the cause shown for that purpose, by any parties feeling aggrieved, that the ends of justice will be thereby promoted; but no such review shall be had after the expiration of two years from the time of rendering the final decree in any case.

Court or judge may order review.

SEC. 34. Any party, or two or more parties, who may choose to join in appeal, shall be entitled to an appeal from any decree or order, rendered under the provisions hereof, upon giving bonds for costs of such appeal; and such appeals shall be governed in all respects by the laws now in force regulating appeals, save that for good reason to them appearing the supreme court may make such order and rule in any respect concerning such appeals as they deem proper for the promotion of justice.

Appeal.

Sheriff not to
serve writ out-
side of county,
etc.

SEC. 35. Nothing herein contained shall be construed to authorize any sheriff to serve any writ outside the limits of his own county, or give effect to any record, by way of notice or otherwise, in any county other than that in which it belongs.

Compensation of
water commis-
sioners, how
paid.

SEC. 36. The water commissioners herein provided shall be each entitled to pay at the rate of four-dollars per day for each day he shall be actually employed in the duties of his office, not to exceed fifty days in any one year, to be paid by the county or counties in which his irrigation district may lie. Each water commissioner shall keep a just and true account of the time spent by him in the duties of his office, and shall present a true copy thereof, verified by oath, to the board of commissioners of the county in which his district may lie, and said board of commissioners shall allow the same; and, if said irrigation district shall extend into two or more counties, then such water commissioner shall present his account for his said services, verified as aforesaid, to the board of county commissioners of each county into which such district extends, and each board of county commissioners shall allow an equal part thereof.

Irrigation of
meadow lands by
overflow

SEC. 37. All persons who shall have enjoyed the use of the water in any natural stream for the irrigation of any meadow land, by the natural overflow or operation of the water of such stream, shall, in case the diminishing of the water supplied by such stream, from any cause, prevent such irrigation therefrom in as ample a manner as formerly, have right to construct a ditch for the irrigation of such meadow, and to take water from such stream therefor, and his or their right to water through such ditch shall have the same priority as though such ditch had been constructed at the time he, she or they first occupied and used such land as meadow-ground.

Reservoirs.

SEC. 38. Persons desirous to construct and maintain reservoirs, for the purpose of storing water, shall have the right to take from any of the natural streams of the state and store away any unappropriated water not needed for

immediate use for domestic or irrigation purposes; to construct and maintain ditches for carrying such water to and from such reservoir, and to condemn lands for such reservoirs and ditches in the same manner provided by law for the condemnation of lands for right of way for ditches *Provided*, no reservoir with embankments or a dam exceeding ten feet in height shall be made without first submitting the plans thereof to the county commissioners of the county in which it is situated, and obtaining their approval of such plans.

SEC. 39. The owners of any reservoir may conduct the water therefrom into and along any of the natural streams of the state, but not so as to raise the waters thereof above ordinary high water mark, and may take the same out again at any point desired, without regard to the prior rights of others to water from said stream; but due allowance shall be made for evaporation and seepage [seepage], the amount to be determined by the commissioners of irrigation of the district; or, if there are no such commissioners, then by the county commissioners of the county in which the water shall be taken out for use.

Owners of reservoirs may convey water therefrom through natural streams.

SEC. 40. The owners of the reservoirs shall be liable for all damages arising from leakage or overflow of the waters therefrom, or by floods caused by breaking of the embankments of such reservoirs.

Owners of reservoirs liable for damages.

SEC. 41. Said water commissioner shall have power, in case of emergency, to employ a suitable assistant to aid him in the discharge of his duties. Such assistant shall take the same oath as the water commissioner, and shall obey his instructions, and shall be entitled to three dollars per day for every day he is so employed, not to exceed twenty-five days, to be paid upon the certificate of the water commissioner, in the same manner as provided for paying water commissioners.

Water Commissioners may employ assistant.

Pay for assistant.

SEC. 42. Said water commissioners shall not begin their work until they shall be called on by two or more owners or managers, or persons controlling ditches in their several districts, by application in writing, stating that there

When commissioners to begin work.

is necessity for their action ; and they shall not continue performing services after the necessity therefore [therefor] shall cease.

Fees of clerk of district court, how paid.

SEC. 43. The fees of the clerk of the district court for a service rendered under this act, shall be paid by the counties interested, in the same manner as the fees of the water commissioners, upon the said clerk rendering his account, certified by the district judge to the board or boards of county commissioners of the county or counties embracing the water district, in case of which the services shall have been rendered.

Penalty for opening or interfering with head-gate, etc.

SEC. 44. Every person who shall willfully open, close, change or interfere with any head-gate or water-box without authority, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than fifty dollars nor more than three hundred dollars, and may be imprisoned not exceeding sixty days.

Repeal.

SEC. 45. That all laws or parts of laws inconsistent herewith are hereby repealed.

Emergency.

SEC. 46. That it is of great importance that the provisions of this act should be carried out during the coming irrigating season, therefore in the opinion of this General Assembly an emergency exists, requiring this act to take immediate effect, and it shall be in force from and after its passage.

Approved February 19, 1879.

AN ACT

Changing the Boundaries of certain Judicial Districts, and Re-arranging the Counties therein.

Be it enacted by the General Assembly of the State of Colorado :

SECTION 1. That the several judicial districts of the State of Colorado shall be composed of the following counties respectively, that is to say :

Boundaries, judicial districts.

First District. Boulder, Jefferson, Gilpin, Clear Creek, Grand, Summit and Routt.

Second District. Arapahoe, Elbert, Weld, Douglas and Larimer.

Third District. Las Animas, Huerfano, Fremont, Bent, Pueblo and Custer.

Fourth District. Conejos, Rio Grande, Saguache, Lake, Hinsdale, Ouray, San Juan, La Plata, Gunnison, Park, El Paso and Costilla.

SEC. 2. It is the sense of this General Assembly that Emergency. an emergency exists; therefore, this act shall take effect and be in force from and after its passage.

Approved January 30, 1879.

AN ACT

To regulate the Service of Summons and other Process issued by Justices of the Peace.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Summons issued by justices of the peace Summons, how served. in the State of Colorado shall be served as follows: By delivering a copy thereof to the defendant, or by leaving a copy of the summons at the usual place of abode of the defendant, with some member of his or her family, over the age of fifteen years.

Approved February 12, 1879.

AN ACT

Concerning Limitation of Actions in the Courts of Justice.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. It shall be lawful for any person against whom any action shall be commenced, in any court of this state, where the cause of action accrued without the state, upon a contract or agreement, express or implied, or upon What actions shall be barred if not commenced within six years.

any sealed instrument in writing, or judgment or decree of any court, more than six years before the commencement of the action, to plead the same and give the same in bar of the plaintiff's right of action.

Repeal.

SEC. 2. Section sixteen, of chapter sixty, of the General Laws of 1877, concerning limitations, and all acts inconsistent with this act, are hereby repealed.

Approved February 14, 1879.

AN ACT

Concerning Masonic Bodies.

Be it enacted by the General Assembly of the State of Colorado :

How masonic bodies, not incorporated, may take and hold real estate.

SECTION 1. Any masonic body duly chartered by its grand body according to the laws, constitution and usages of the masonic fraternity, and not wishing to become a corporate body, may take and hold real estate for its use and benefit by purchase, grant, devise, gift, or otherwise, in and by the name and number of said body according to the respective registers of the grand body under which the same may be holden; and the presiding officer of such body, together with the secretary thereof, may make conveyances of any real estate belonging to such body when authorized by a majority of all the members of said body under such regulations as the said masonic body, or its grand body, may see fit to make; but all such conveyances shall be attested by the seal of said subordinate body.

Presiding officer may bring suit to protect rights.

SEC. 2. Should it become necessary at any time to protect the rights of such masonic body in and to the real estate and personal property, the presiding officer thereof may bring suit in his own name for the benefit of the masonic body over which he presides, in any of the courts of record of this state having original jurisdiction, and may prosecute or defend the same in the supreme court of the state.

How suit brought when property held by two bodies jointly.

SEC. 3. In case any property shall be held jointly by two or more masonic bodies, then the presiding officers of

each of said bodies so holding jointly may unite in bringing suit in their own names for the benefit of the masonic bodies over which they preside.

SEC. 4. This act shall be deemed to apply to the Independent Order of Odd Fellows as well as to the masonic fraternity. This act applicable to Odd Fellows.

SEC. 5. It is hereby declared that an emergency exists for the immediate taking effect of this act; it shall, therefore, be in force from and after its passage. Emergency.

Approved February 14, 1879.

AN ACT

Concerning the Enrollment and Organization of the Militia of the State, prescribing the District and Number and Rank of the Officers thereof, and Defining the Duties of such Officers

Be it enacted by the General Assembly of the State of Colorado:

ARTICLE I.

MILITARY DISTRICTS—STAFF OF THE COMMANDER-IN-CHIEF.

SECTION 1. The state shall be divided into two military divisions or districts, as follows, viz.: How military districts divided.

By a line running due east and west through the same, which shall pass through the town of Bradford; the portion of the state lying north of said line constituting the first, and that south of it, the second division.

SEC. 2. The governor shall be commander-in-chief of the militia, and shall have the power, by and with the consent of the senate, to appoint one major-general and one or more brigadiers-general for each division, as may be required; one adjutant-general with the rank of brigadier-general, one inspector-general, who shall act as paymaster-general, both of the latter with the rank of colonel, and shall have power to fill vacancies in these offices when the senate is not in session; the commander-in-chief shall also of What officers to compose Governor's staff.

be entitled to two aids, with the rank of colonels, and a military secretary, with the rank of major.

ARTICLE II.

ENROLLMENT.

- SEC. 1. Who shall be enrolled.
- SEC. 2. Duties of assessors and county clerks as to enrollment; duties, etc.
- SEC. 3. Who shall give information to assessors; penalties for refusal.
- SEC. 4. Refusal or neglect of assessors.
- SEC. 5. Compensation of assessors.
- SEC. 6. Absolute exemptions.
- SEC. 7. Exempt except in case of war, etc.
- SEC. 8. Giving false certificate of disability; penalty.
- SEC. 9. Altering or transferring certificate of disability; penalty therefor.
- SEC. 10. Enrollment to remain in force.

Who shall be enrolled.

SECTION 1. Every able-bodied male citizen of Colorado, and those who have declared their intention to become citizens of the United States, between the ages of eighteen and forty-five years, except persons exempt by law, shall be enrolled in the militia, and perform military duty in the manner hereinafter prescribed.

Duty of assessors and county clerks as to enrollment.

SEC. 2. The assessors in the several counties in the state shall, in the year eighteen hundred and seventy-nine, and every year thereafter, while making the assessment of personal property, make two separate lists of persons liable to enrollment within their jurisdiction respectively—one of persons so liable under the provisions of section seven of this article, and one of all other persons subject to enrollment; at the time they make their assessment returns they shall return certified copies of such lists to the clerks and recorders of their respective counties, who shall file the same; upon satisfactory proof said clerks and recorders may correct the lists by adding names of persons improperly omitted, and striking off names of parties improperly enrolled, and they shall each, before the first Tuesday fol-

lowing the first Monday of September following, make and transmit to the adjutant-general of the state a statement showing the number of each class of persons enrolled in each township, ward and precinct of their respective counties. The governor may, when in his opinion it is unnecessary to make the enrollment provided for in this section, direct that it be dispensed with, and he may also order each enrollment to be made at any other time than as above provided, whenever in his opinion there is necessity therefor.

Governor may order enrollment dispensed with, or time of making same changed

SEC. 3. Keepers of taverns or boarding-houses, and masters or mistresses of dwelling-houses, shall, upon application of the assessors within whose bounds their houses are situated, give information of the names of persons residing in their houses who are liable to enrollment, and every such person shall upon like application, give his name and age; and if such keeper, master, mistress or other person refuse to give such information, such keeper, master or mistress shall forfeit and pay twenty, and such other person shall forfeit and pay ten dollars, to be recovered on complaint of the assessor.

Who shall give information to assessors; penalty for refusal.

SEC. 4. If the assessor refuses or neglects to perform any of the duties required of him by this article, the governor may order the adjutant-general or some other person to perform any or all of such duties, and an assessor who refuses or knowingly neglects to perform any duty enjoined on him by this article, shall, for every such neglect or refusal, pay to the state, for the benefit of the military fund, not less than one hundred dollars, to be recovered before any court of record, and shall be committed to the county jail until such fine and costs are paid or secured to be paid.

Refusal or neglect of assessors.

SEC. 5. Assessors and their assistants shall be paid for their services in making the enrollment required by this article, two cents for each and every name borne on the rolls returned by them, the same to be the names of persons subject to enrollment under the provisions of this article.

Compensation of assessors.

SEC. 6. Persons herein specified are absolutely exempt from enrollment, viz.:

Absolute exemption.

- (a) Persons in the army or navy of the United States, and persons exempt from militia service by its laws in force at the time of making the enrollment.
- (b) Those permanently disqualified for military service by physical disability, and have [having] in their possession the certificate of some reputable physician or surgeon thereto, and describing the nature thereof.
- (c) Idiots and lunatics, and felons convicted of infamous crimes and not pardoned.
- (d) Members of religious denominations which prohibit military service.

Exempt except
in case of war.

SEC. 7. Persons hereafter specified shall be enrolled as provided in section two of this article, but shall be exempt from service in the militia except in case of war, insurrection or invasion, or reasonable apprehension thereof; *Provided*, that if any such person voluntarily enlists in the organized militia he shall thereafter be held to duty therein, notwithstanding this exemption.

- (a) Persons who, at the time of enrollment, have served five consecutive years in the militia of this state, either as officer or enlisted man, and have received an honorable discharge according to law,
- (b) Active members in good standing, serving without pay in some company belonging to a volunteer fire department, organized under and subject to the authority of a municipal corporation, and those who have served for five consecutive years shall be exempt for the five years immediately following such service; but such exemption shall not apply to active members of engine companies of more than fifty-five members; of hook and ladder companies of more than thirty-six members, or of hose companies of more than twenty-five members.

- (c) Ministers of any religious denomination.
- (d) Judges of the supreme, circuit, district and probate courts.
- (e) All state and county officers (excepting notaries public), and all teachers engaged in public institutions and public schools.

SEC. 8. A surgeon or physician who knowingly gives to any person liable to be enrolled in the militia a false certificate of disability, shall be fined for each offense fifty dollars, for the benefit of the military fund.

SEC. 9. Whoever alters or transfers any certificate of disability given by any surgeon or physician to any person otherwise liable to enrollment in the militia, or claims exemption under any such certificate not issued to him, shall be deemed guilty of forgery and punished accordingly.

SEC. 10. Until the enrollment provided for in this article shall have been completed, the existing enrollment of the militia shall remain in force.

ARTICLE III.

ORGANIZATION.

SECTION I. Composition of the organized militia.

SEC. 2. Known as "Colorado National Guards."

SEC. 3. All organizations on same footing.

SEC. 4. Organization of infantry.

SEC. 5. Organization of cavalry.

SEC. 6. Organization of artillery.

SEC. 7. [0.] Contributing members.

SEC. 8. [7.] Muster-in of companies, troops, batteries, etc.

SEC. 9. [8.] Enlistment of recruits.

SEC. 10. [9.] Officers chosen by ballot.

SEC. 11. [10.] Staff, commissioned and non-commissioned.

SEC. 12. [11.] Commissions, oaths of office, examinations, preparations and fees.

SEC. 13. [12.] Rank of officers.

SEC. 14. [13.] Resignations.

- SEC. 15. [14.] What acts vacate commission.
 SEC. 16. [15.] When governor may disband troops.
 SEC. 17. [16.] Brigades and divisions.
 SEC. 18. [17.] Command of troops.
 SEC. 19. [18.] Privileges and exemptions.
 SEC. 20. [19.] Terms of service, discharge, etc.

Composition of
the organized
militia.

SECTION 1. The organized militia shall be composed of such uniformed companies, troops and batteries as are now organized according to law, and such other companies, troops and batteries as may hereafter be organized pursuant to the provisions of this law; but such force shall not exceed one hundred companies of infantry, six batteries of artillery, and twelve troops of cavalry; except as hereinafter provided, and companies hereafter organized shall be apportioned throughout the State in accordance with the population and requirements of the several counties, as nearly as practicable.

To be known as
"Colorado National Guard."

SEC. 2. The organized militia shall be known as the "Colorado National Guard," and may be ordered into active service by the governor to aid the civil officers to suppress or prevent riot or insurrection, or to repel or prevent invasion; and they shall, in all cases, be called into service before the unorganized militia.

All organizations
on same footing.

SEC. 3. Companies, troops and batteries heretofore organized shall retain their organization, and be governed, controlled and drilled, and be upon the same footing as those organized in accordance with the provisions of this law; but any member thereof shall be entitled to be discharged from the service at the expiration of three years from the date of his enlistment.

Organization of
infantry.

SEC. 4. The infantry shall be organized as follows: Each company shall have a captain, a first lieutenant, a second lieutenant, a first sergeant, four sergeants, eight corporals, two musicians, not less than twenty-four nor more than seventy privates; each battalion shall consist of not less than two nor more than six companies; a battalion of four companies, or less, shall be entitled to a major; a battalion of five or six companies shall be entitled to a

lieutenant-colonel and major; each regiment shall consist of not less than eight nor more than ten companies, and shall be entitled to a colonel, a lieutenant-colonel, and a major; the battalion and regimental staff officers shall consist of an adjutant and a quartermaster, each with the rank of first lieutenant, a chaplin, and in regiments, of a surgeon with the rank of major, a first assistant surgeon with the rank of captain, and a second assistant surgeon with the rank of first lieutenant; in a battalion of more than four companies, to [of] a first and a second assistant surgeon of the ranks above given, and in a battalion of four companies, or less, a first assistant surgeon of the rank above given; the battalion and regimental non-commissioned staff shall consist of a sergeant-major, a quartermaster-sergeant, a commissary-sergeant, a hospital-steward, a drum-major, and a fife-major, and a battalion or regimental band, to be enlisted and organized by its commanding officer at his discretion, to comprise not more than twenty-eight musicians, the leader to rank as sergeant-major, and the next two principal musicians therein to rank as sergeants.

SEC. 5. Each troop of cavalry shall have a captain, ^{Organization of a cavalry.} a first lieutenant, a second lieutenant, a first sergeant, five sergeants, eight corporals, two trumpeters, one farrier, two blacksmiths, one saddler and not less than twenty nor more than eighty privates; each battalion of four companies shall be entitled to a major, and such battalion staff, commissioned and non-commissioned, as prescribed for infantry organizations of like size in section four of this article.

SEC. 6. Each two-gun battery shall have a captain, ^{Organization of artillery.} a first lieutenant, a second assistant surgeon, with rank of lieutenant, a first sergeant, a quarter-master sergeant, two sergeants, four corporals, a trumpeter, a farrier, two artificers, and not less than twenty nor more than forty privates; each four-gun battery shall have a captain, a first lieutenant, a second lieutenant, a first assistant surgeon, with the rank of captain, a first sergeant, a quartermaster-sergeant, four sergeants, eight corporals, two trumpeters, two artificers, a farrier, harness-maker, and not less than forty nor more than eighty privates; each six-gun battery shall have a cap-

tain, a senior and a junior first lieutenant, a senior and a junior second lieutenant, a first assistant surgeon, with the rank of captain, a first sergeant, a quartermaster-sergeant, six sergeants, twelve corporals, two trumpeters, two artificers, two farriers, a harness-maker, and not less than sixty nor more than one hundred and twenty privates.

Muster in of
companies,
troops, batteries,
etc.

SEC. 7. A company, troop, or battery may be organized upon the petition of a number of persons, subject to military duty, equal to the minimum required for the organization proposed; such petition shall be forwarded to the governor, who, if it appear to him that the proposed organization is properly composed, that its location is suitable, and that it can be made efficient, shall refer the same to an officer designated by him for the purpose, who shall direct that the petitioners assemble at a convenient time, and then inspect them, and receive into the service of the state for the term of three years, unless sooner discharged, such of the petitioners, and other persons, not less than the minimum number required, as, in his judgment, are proper persons to enter the same; he shall require the persons so received then to elect, by ballot, the officers to be commissioned, and he shall transmit to the governor a muster roll of the organization, duly signed by the persons so received, together with a certified statement as to such election, showing the names of the officers elected; and such persons so received into the service shall then be considered duly enlisted.

Enlistment of
recruits.

SEC. 8. After the organization of a company, troop, battery or band, recruits may be enlisted into the same, and shall sign their names to an enlistment roll, to be furnished by the adjutant-general for that purpose; and such signing shall be legal enlistment. Every enlisting officer shall be empowered to administer the oath required upon enlistment.

Officers chosen
by ballot.

SEC. 9. Field officers of battalions and regiments shall be elected by ballot, by the commissioned officers of such organizations, to serve for a term of three years, unless sooner discharged; and line officers shall be elected, in like

manner, by the members of their respective companies, troops and batteries, to serve for a like term; in all cases a majority of all the votes cast at an election shall be necessary to a choice.

SEC. 10. Commissioned and non-commissioned staff Staff, commissioned and non-commissioned. officers, and the leader and sergeants of the band, of each battalion and regiment, and non-commissioned officers of each company, troop and battery, shall be appointed by the commanding officers of their respective organizations; and each non-commissioned officer shall be furnished with a warrant of authority, signed by the commandant of the company, troop or battery of which he is a member, but if a member of a company attached to a battalion or regiment, the warrant, on recommendation of the company commander, will be issued from the headquarters of such organization, signed by the commandant and adjutant thereof.

SEC. 11. All commissions shall be issued, under the Commissions, oaths of office. seal of the adjutant-general's office, signed by the governor and countersigned by the adjutant-general; an officer duly commissioned, shall, within ten days after the receipt or tender of his commission, take and subscribe to the following oath or affirmation: "I, ———, do solemnly swear (or affirm) that I will bear true allegiance to the United States of America and to the State of Colorado; that I will serve them honestly and faithfully against all their enemies and opposers whatsoever; and that I will observe and obey the orders of the president of the United States, the governor of this state, and the orders of the officers appointed over me, according to the rules and articles for the government of the armies of the United States and of this state," before some officer qualified to administer oaths; the officer who administers same shall certify the fact on the commission, and transmit the oath (or affirmation), properly sealed and attested, to the adjutant-general, who shall file the same in his office; *Provided*, Examination. that no officers or [of] companies shall be commissioned without the certificate of the inspector-general, or of some

Time given to
prepare for ex-
amination.

board appointed by the commander-in-chief, as to their fitness and qualifications for such commissions, after a full and fair examination; *and provided further*, that officers elected shall have three months from date of election in which to prepare for said examination. All officers failing to appear for, or to pass the examination, shall have their positions declared vacant, and an election shall be ordered to fill the same. No charge shall be allowed, or pay received, for any commissions issued under the provisions of this act.

No fee for com-
missions.

Rank of officers.

SEC. 12. The rank of all officers now in the service, or hereafter commissioned, shall date from date of commission, and an officer who has served continuously in the same grade for more than one term, either by re-election or re-appointment, shall take rank from the date of his first commission in that grade.

Resignations.

SEC. 13. The resignations of officers shall be addressed to the governor and transmitted to the adjutant-general through the regular military channels; and commanding officers, before forwarding resignations, shall indorse thereon their approval or disapproval, together with all facts bearing on the case; but an officer tendering his resignation shall not be considered out of the service until his resignation has been accepted.

What acts vacate
commission.

SEC. 14. An officer who moves out of a county where his command is located, or who absents himself from his command six months without leave of his commanding officer, shall be considered as having vacated his office, and an election shall be ordered and held without delay to fill the vacancy.

When governor
may disband
troops.

SEC. 15. Whenever a company, troop or battery becomes reduced in number below one-half of the minimum strength, or from general insubordination, contention or other cause, becomes demoralized and inefficient, and its disbandment is therefore necessary for the good of the service, the governor may disband the same, and order the officers thereof to be mustered out of the service; but no member of a company, troop or battery shall be dishonor-

ably discharged except upon due trial and conviction by court-martial, or in some other lawful manner.

SEC. 16. The "National Guard," while in active service, may be organized into brigades and divisions by the commander-in-chief. Brigades and divisions.

SEC. 17. The command of any military force called into service under the provisions of this act, shall devolve upon the senior officer of such force, unless otherwise specially ordered by the commander-in-chief. Command of troops.

SEC. 18. Active members of all companies, troops and batteries, shall, during their membership, be exempt from labor on the public highways and from service as jurors. Exemptions.

SEC. 19. Every officer and enlisted man shall be held to service for the term of three years, unless he sooner arrive at the age of forty-five years, or be disabled or properly discharged, and upon the expiration of the service of any enlisted man as aforesaid, and upon his demand, the commandant of his company, troop or battery shall forward, through the proper military channel, to the adjutant general, a certificate thereof, and to such enlisted man, and on demand, to all officers whose service has expired as aforesaid, the adjutant general, upon the approval of the governor, shall issue and transmit a discharge, which shall show the reason therefor and the term of service. Term of service discharge, etc.

ARTICLE IV.

STAFF DEPARTMENTS—OFFICERS AND THEIR DUTIES.

SECTION 1. Adjutant-general, term of office, duties, seal.

SEC. 2. Assistants adjutant-general, number, rank. [Adjutant-general; further duties of.]

SEC. 3. Inspector-general, term of office, duties, bond. [Assistants adjutant-general.]

SEC. 4. Assistants inspector general, number, rank. [Inspector-general; term of office, duties.]

SEC. 5. Bonds required from disbursing officers. [Assistants inspector-general, number, rank.]

SEC. 6. Books of record, etc., how provided. [Bonds required from disbursing officers.]

SEC. 7. Clerks, officers [offices], store rooms. [Books of record, etc., how provided.]

SEC. 8. Subordinates, their number and rank. [Clerks, offices, store rooms.]

SEC. 9. Judge advocate-general, rank, duties.

SEC. 10. Judge advocates, their number, rank. [Pay of the adjutant-general and inspector-general in time of peace.]

SEC. 11. Pay in time of peace. [No section eleven in this article.]

Adjutant-general
term of office,
duties, seal,
report.

SECTION 1. The adjutant-general shall hold his office for the term of two years, or until his successor is appointed and qualified, unless sooner removed for misconduct, or in case of the vacation of his office by resignation duly accepted. He shall distribute all orders from the commander-in-chief. He shall be the organ of all written communications from the state troops to the commander-in-chief, and shall attend him when required in reviews of the state troops, or whenever ordered in the performance of military duty. He shall obey or issue such orders as the commander-in-chief shall give in relation to all military matters, and shall be entitled to use the coat-of-arms of the state as his seal of office, with the words added thereto, "State of Colorado, Adjutant-General's Office." He shall annually make a return in triplicate of all the militia of the state, one copy whereof he shall deliver to the commander-in-chief on or before the fifteenth day of December, one copy transmit to the president of the United States, on or before the first day of January thereafter, and one copy shall be filed in his office.

Further duties of
adjutant-general

SEC. 2. The adjutant-general shall keep in good repair and attend to the preservation and safe keeping of the ordnance, arms, accoutrements, ammunition, munitions of war, flags, banners and military relics, the property of the state, and shall at all times have the control and disposition of the same, subject to the orders of the commander-in-chief.

He shall, under the direction of the military board, dispose to the best advantage of all arms, ammunition, accoutrements and warlike stores of every kind, the property of the state, that shall be deemed unsuitable for the use of the state, and shall pay the proceeds of such sales into the state treasury, to the credit of the military fund. He shall make a report bi-ennially to the commander-in-chief, showing the actual situation and disposition of the military stores which have been entrusted to his keeping.

SEC. 3. In addition to the chief of this department, there shall be one assistant adjutant-general, with the rank of a lieutenant-colonel, who shall act for the adjutant-general in case of his absence, and an assistant adjutant general, with the rank of captain, for the staff of each brigadier-general in service. Assistants adjutant-general, number, rank.

SEC. 4. The inspector-general shall hold his office two years, or until his successor is appointed and qualified, unless sooner removed for misconduct, or in case of the vacation of his office by resignation duly accepted. He shall under the direction of the commander-in-chief, critically inspect, at least once in every year, each regiment, battalion, company, troop, battery and band of the Colorado National Guard, as to their discipline, drill, soldierly appearance, arms, uniforms and general efficiency. He shall visit the several encampments ordered by the commander-in-chief, and have the oversight and direction of the exercises and maneuvers required to be practiced by the troops. He shall inspect the armories, arms, accoutrements, camp equipage, and other military stores as often as the commander-in-chief may direct. He shall have charge of rifle practice throughout the state, and shall direct the manner in which the same shall be conducted. On the approval of the commander-in-chief, expenditures may be made for maintaining rifle ranges and promoting rifle practice in the National Guard. He shall, at the close of each tour of inspection, and after each encampment, make report to the commander-in-chief of such matters that come under his inspection, or are of importance for him to know, and Inspector-general, term of office, duties.

annually, on or before the first day of December, make to the governor a report of his department.

Bond.

He shall act as paymaster-general, and shall give bond in the sum of five thousand dollars for the proper and faithful discharge of his duties as such.

Assistants in-
specter general,
number, rank

SEC. 5. In addition to the chief of this department there shall be an assistant inspector-general, with the rank of captain, for the staff of each brigadier-general in service.

Bonds required
from disbursing
officer.

SEC. 6. The adjutant-general shall require bonds from all disbursing and distributing officers of his department, and other officers in charge of public property, to an amount to be fixed by the state military board and approved by the commander-in-chief, and in the manner to be prescribed in the general regulations and orders, which bonds, when approved by the state military board, shall be filed in the adjutant-general's office.

Books of Record,
etc., how pro-
vided.

SEC. 7. The adjutant-general shall provide the several departments, on their requisitions, the necessary rosters, books of record, blank commissions, enlistments, discharges, rolls, and other papers required by law and regulation, at the expense of the state. The adjutant-general may be required to give bond conditioned for the faithful discharge of the duties of his office, for such sum as the commander-in-chief may direct.

Clerks, offices,
store-rooms.

SEC. 8. The governor may authorize the employment of clerks and the hiring of offices, the purchase of fuel, lights, stationery and books for the military service, for the use of the heads of departments, recruiting officers, etc., upon the recommendation of the state military board. He may also authorize the hiring of store-rooms, for the safe keeping of public stores, at such place or places as he shall designate, until an arsenal or magazine shall be secured by the state.

Judge advocate-
general; rank,
duties.

SEC. 9. The attorney-general of the state shall be the judge-advocate general thereof, with the rank of colonel. He shall discharge all the duties thereof according to the regulations and orders to be issued governing the same.

SEC. 10. The annual compensation, in times of peace,

of the adjutant-general shall be one thousand dollars; of the inspector-general, one hundred and fifty dollars, and shall be payable quarterly out of the military fund.

ARTICLE V.

THE MILITARY FUND.

SECTION 1. Military poll tax, amount, how levied and collected, exemption from.

SEC. 2. Duties of county treasurer.

SEC. 3. How kept and disbursed. [Transfer of poll tax fund to military fund, etc.]

SEC. 4. Funds now due to be forwarded immediately. [Penalty for violation of section three.]

SEC. 5. Receipts for tax, non-payment forfeits right of franchise. [Accounts and claims, how paid.]

SEC. 6. Penalty for violation of this article. [No section six in this article.]

SECTION 1. For the purpose of carrying into effect the provisions of this act, and for creating a military fund, an annual poll tax of fifty cents shall be levied upon each male inhabitant of the state above the age of twenty-one years, excepting active members of the National Guard, and such other persons as may be exempt by law. The said poll tax shall be assessed and collected in the same manner as is now, or may be by law provided for the assessment and collection of other state poll taxes.

SEC. 2. The money collected from the above poll tax shall be kept by the county treasurers separate from all other funds, and shall be by them transmitted quarterly to the state treasurer, who shall place it to the credit of the military fund.

SEC. 3. All moneys now in the hands of the state or county treasurers, to the credit of the poll tax fund, shall be placed to the credit of the military fund above created. Such funds now held by county treasurers shall be at once transmitted by them to the state treasurer.

SEC. 4. Every county treasurer who shall neglect or refuse to send to the state treasurer any and all moneys

Pay of adjutant-general and inspector-general.

Military poll tax, amount, exemptions, how levied and collected.

Duties of County Treasurer.

Money in treasurer's hands belonging to poll tax fund, transferred to military fund.

Funds now due to be immediately forwarded.

Penalty for neglect or refusal of county treasurer to forward money to state treasurer belonging to the military fund as provided for, shall be deemed guilty of a high misdemeanor, and upon conviction thereof, shall be fined in a sum not less than fifty dollars nor more than five hundred dollars; and the court may adjudge that said treasurer be removed from his office.

Accounts and claims, how paid

SEC. 5. All accounts or claims payable from the military fund shall be paid on the order of the adjutant-general, approved by the governor as commander-in-chief.

ARTICLE VI.

DISCIPLINE AND GOVERNMENT.

SECTION 1. By what laws and regulations to be governed.

SEC. 2. Military board prescribe regulations, governor to approve; printed and distributed, revisions, etc.

SEC. 3. General courts martial.

SEC. 4. Courts martial.

SEC. 5. Witnesses to attend.

SEC. 6. Father, master or guardian liable for dues, when.

SEC. 7. Collected in name of the state.

SEC. 8. Actions for fines.

SEC. 9. Fines and dues, to whom to be paid.

By what laws and regulations to be governed.

SECTION 1. Companies, troops, batteries, bands, battalions and regiments shall be governed by the military law of the state, the code of regulations, the orders of the governor, and the regulations, articles of war, customs and usages of the United States army, as near as may be, and in all drills and ceremonies shall conform to the standard tactics of said army.

Military board to prescribe regulations; governor to approve; printed and distributed; revisions.

SEC. 2. The state military board shall prescribe such regulations, not inconsistent with law, as will increase the discipline and efficiency of the "National Guard"; they shall prepare and submit to the commander-in-chief, for his approval, a code of regulations for the government and regulation of the same, which code, upon his approval, shall form part of this law, and be printed and distributed to the

various organizations, and shall take the place of and annul all company, troop, battery, battalion and regimental constitutions and by-laws, except such as may be allowed by the code; and the governor may, whenever in his judgment it is necessary, order said board to review and amend such code, and to consider other military questions in the interest of the service.

SEC. 3. The governor may order courts martial for the trial of officers and enlisted men of the "National Guard," on proper charges and specifications, the proceedings of which shall be as provided in the regulations, articles of war and practice for the government of the army of the United States, as near as may be, and in ordering a court martial he shall detail a judge-advocate and provost marshal for same. Proceedings transmitted to judge advocate general.

General courts martial.

SEC. 4. Regimental, battalion and company courts-martial may be convened by order of the commandants thereof, approved by his next superior officer, under such regulations as the state military board may prescribe. The proceedings, etc., shall be transmitted to the adjutant-general, for reviewal by the judge advocate-general.

Courts martial.

SEC. 5. The president of a court-martial may issue subpoenas, enforce the attendance of a witness, and punish a refusal to be sworn, as provided in civil actions.

Witnesses to attend.

SEC. 6. For a fine assessed or dues levied against a minor, in case such minor enlisted with the consent of his father, master, or guardian, the father shall be liable jointly and severally with his son, the master with his apprentice, and the guardian with his ward, for the amount of his ward's funds in his hand.

Father, master, guardian liable for fines and dues, when.

SEC. 7. Dues levied by the by-laws of any organization may be collected by civil suit; all fines shall be assessed in the name of the state; all suits for the collection of fines or dues shall be brought in the name of the State of Colorado, for the use of the company, troop or battery.

Collected in name of state.

SEC. 8. When fines assessed by a court-martial are not paid within ten days after the sentence is approved by

Actions for fines.

the reviewing officer, and returned to the commandant, a list thereof, and of the delinquents, shall be placed in the hands of the justices of the peace within the townships in which the delinquents reside, who shall thereupon render judgment against such delinquents separately, together with the costs of suits, without issuing process, and shall issue execution thereon, directed to any constable of the proper township, who shall collect the same; and the money so collected shall, after deduction of costs, be disposed of by such justices as provided in the next section.

Fines and dues,
to whom paid.

SEC. 9. Fines assessed by courts-martial, and dues, shall, when collected, be paid to the treasurer of the proper company, troop or battery, for the use of the organization; and all other fines shall, when collected, be paid into the treasury of the proper county to the credit of the state military fund.

ARTICLE VII.

UNIFORMS, DRILLS, ETC., AND PAY.

SECTION I. Uniforms of general and general staff officers.

SEC. 2. Dress uniform of "National Guard."

SEC. 3. State allowance for uniforms. [Penalty for losing, etc., state uniforms.]

SEC. 4. Penalties for losing, etc., state uniforms. [Commissioned officers to equip and uniform themselves.]

SEC. 5. Commissioned officers and equip themselves. [When to be uniformed]

SEC. 6. When to be uniformed. [Drills.]

SEC. 7. Drills. [Inspections.]

SEC. 8. Inspections. [Encampments.]

SEC. 9. Encampments. [Duties, etc., during encampments.]

SEC. 10. Duties, etc., during encampments. [Yearly pay from state treasury.]

SEC. 11. Yearly pay from state treasury. [Pay when in actual service.]

- SEC. 12. Pay when in actual service. [Pay during encampment.]
- SEC. 13. Pay during encampment. [Claims for pay, how audited and paid.]
- SEC. 14. Claims for pay, how audited and paid. [Transportation, etc., when paid by state; when otherwise paid, and how.]
- SEC. 15. Transportation, when paid by state; when otherwise paid and how. [Armory and drill room furnished and expense paid, how.]
- SEC. 16. Armory and drill room furnished and expense thereof paid, how. [Pay of chiefs of departments on active service.]
- SEC. 17. Pay of chiefs of departments in active service. [No Section 17 in this article.]

SECTION 1. The dress uniform of general officers, chiefs of staff departments and general staff officers shall be the same as that prescribed for said officers in the United States army. Uniform of general and general staff officers.

SEC. 2. The Colorado National Guard shall be furnished by the adjutant-general with uniforms similar to the regulation uniform prescribed for the army of the United States, for similar arms and grades of the service, with the exception of the buttons, belt plates, and cartridge-box plates, which shall be inscribed with the monogram C. N. G., according to pattern now on file in the adjutant-general's office. The adjutant-general shall advertise for bids to furnish uniforms as needed, which bids shall be opened in the presence of the military board, which board shall direct the adjutant-general what bid to accept, or what course to pursue if all the bids be rejected; and the uniforms thus paid for shall belong to the state, and shall be accounted for by the commanding officers of the respective companies. Uniform of national guard.
Bids for furnishing uniform.
Uniforms to belong to state.

SEC. 3. Any man losing, destroying, mutilating or making away with the uniform or uniforms thus furnished, or any part thereof, shall be punished at the discretion of a court-martial. Penalty for losing, etc.

SEC. 4. Commissioned officers shall furnish their own arms, uniforms and equipments.

When national
guards to be uni-
formed.

SEC. 5. The "National Guard" of the state shall be uniformed, according to the requirements of this article, by the first day of May, A. D. 1880.

Drills.

SEC. 6. There shall be a company, troop, and battery drill at least once every month, and a battery [battalion] drill of each battalion or regiment at least once in each year, at the time and place most convenient.

Inspections.

SEC. 7. The inspector-general, or an officer acting under his authority, shall publicly inspect each company, troop and battery twice in each year, once in and including its armory, and once during the encampment, or at some other suitable time.

Encampments.

SEC. 8. There may be an encampment of each unattached company, and of each troop, battery, battalion and regiment, to last not less than four nor more than six days, at least once in each year, between the first day of May and the first day of October; encampments shall be held at such times and places as the commanding officers may direct, notice of which shall be by them severally sent to the adjutant-general; and at least two weeks' notice of a battalion or regimental encampment shall be given each company commander by his commanding officer.

Dates, etc., dur-
ing encampment.

SEC. 9. During an encampment the usual camp routine shall be observed, as near as practicable, and the officers and men shall be governed by the regulations, customs and usages of the United States army. The commanding officer may fix certain bounds, not including any public road, within which no spectator shall enter without leave; and whoever intrudes within such limits when forbidden to do so, or, after entering by permission, conducts himself in a disorderly manner, or whoever resists a sentry on guard, acting under orders to prevent such entry, or to prevent disorderly conduct, may be arrested by the commanding officer, or by his order, and taken before a justice of the peace of the proper township, and, upon conviction of the offense, shall be fined not more than fifty nor less

than ten dollars, and the costs of prosecutions, and committed until such fine and costs are paid; all such fines, when collected, to be placed to the credit of the military fund.

SEC. 10. Each company of infantry and troop of cavalry shall be entitled to receive one hundred dollars, and each battery one hundred dollars for every two guns, annually out of the state treasury, for the care of arms and other incidental expenses, to be paid to the treasurer of the company, troop or battery on his application, approved by the commandant of the organization and the governor; but the governor's approval shall not be given until all reports and returns required by section eight of article eight of this act, have been received by the adjutant-general. When the sum appropriated for such purpose is not sufficient for the full allowance to each organization as aforesaid, the adjutant-general shall apportion the same *pro rata* to the several organizations.

Yearly pay from
state treasury.

SEC. 11. Officers and enlisted men when serving under the orders of the governor, or of a sheriff, mayor or judge, to prevent or suppress riot or insurrection, or to repel or prevent invasion, shall receive pay at the following rates for a period not exceeding seven consecutive days, and thereafter at the same rate of pay and allowances made to officers and enlisted men of like grades in the army of the United States: Each general officer, six dollars per day; each field officer and surgeon, five dollars per day; each line officer, and each staff officer ranking not higher than a captain, four dollars per day; and each enlisted man, two dollars per day; necessary transportation and medical attendance, supplies and quarters shall also be provided for them, and subsistence shall be provided for enlisted men; a reasonable allowance shall also be made for animals necessarily used.

Pay when in
actual service.

SEC. 12. For each twenty-four hours' duty during encampment, as provided in section nine, article seven, of this act, each officer shall receive two, and each enlisted man one dollar; and for each day a troop of cavalry or battery of artillery is actually on parade or in camp, as provided in

Pay during
encampment.

said section, not exceeding in all ten days in each year, there shall be allowed not exceeding two dollars for each horse actually and necessarily used, not exceeding forty for a troop of cavalry, twenty-one for a two-gun battery, forty for a four-gun battery, and fifty-eight for a six-gun battery.

Claims for pay,
how audited and
paid.

SEC. 13. Payments under the preceding section shall be made by the inspector-general from the military fund of the state; no voucher for any such payment shall be audited unless certified as correct by the proper commanding officer and passed by the state military board; pay rolls of companies, troops and batteries, and also of field and staff officers, non-commissioned staff, and bands of regiments and battalions, shall be furnished and certified by the commanding officers of such organizations.

Transportation,
etc., when paid
by state; when
otherwise, and
how.

SEC. 14. Vouchers for transportation, subsistence, medical attendance (when not rendered by a medical officer of the service), medical supplies and quarters and use of horses for troops serving under orders from the commander-in-chief, shall be forwarded to the adjutant-general, who will pay the same when audited by the state military board and approved by the governor; all the expenses (pay, etc.) of troops serving under the call of county or municipal authorities must be met by said corporation from their funds in treasury other than those belonging to the military fund, or by funds subsequently raised therefor by a direct tax on the real and personal property within the limits of said corporation.

Armory and
drill room.

SEC. 15. The commissioners of every county in which the members of any company, troop or battery reside, shall provide for such organization a suitable armory and drill-room, to the acceptance of an officer designated by the inspector-general to inspect the same, and the expense thereof shall be paid from the state military fund.

Pay of chiefs of
departments.

SEC. 16. Chiefs of staff departments when on active service shall receive pay under the provisions of section twelve of this article.

ARTICLE VIII.

MISCELLANEOUS.

- SECTION 1. State military board, how constituted ; duties, etc.
- SEC. 2. Militia ; when required to aid civil authorities. [Duties of military board.]
- SEC. 3. Must obey call of the civil authorities. [National Guard, how maintained.]
- SEC. 4. Men ; how notified to appear. [Militia ; when required to aid civil authorities.]
- SEC. 5. Penalties for disobedience.
- SEC. 6. Blank forms, books, etc. ; by whom furnished. [Men ; how notified to appear.]
- SEC. 7. Adjutants and first sergeants to record returns. [Penalty for neglect or refusal to serve notice or appear.]
- SEC. 8. Quarterly returns. [Blank forms ; by whom furnished.]
- SEC. 9. Certain reports required. [Adjutants and first sergeants to record returns, etc.]
- SEC. 10. Treasurers of organizations to give bond. [Annual returns.]
- SEC. 11. Copies of this act to be printed and distributed. [Certain reports required.]
- SEC. 12. Penalty for breaking into military store-houses. [Treasurers of organizations to give bond.]
- SEC. 13. Paymaster's bonds. [Copies of this act to be printed and distributed.]
- SEC. 14. Transportation, etc., to encampments ; how paid. [Penalty for breaking into military store-houses.]
- SEC. 15. Compensation for parades. [Paymaster's bonds.]
- SEC. 16. Allowance for attendance on courts-martial. [Transportation, etc., to encampments ; how paid.]

SEC. 17. Freedom from arrest. [Compensation for parades.]

SEC. 18. Free passage over toll-roads. [Allowance for attendance on courts-martial.]

SEC. 19. Exemptions. [Freedom from arrest.]

SEC. 20. Recovery of military property. [Free passage over toll-roads.]

SEC. 21. Unlawful armed assemblage. [Exemptions.]

SEC. 22. Penalty for aiding or joining such. [Recovery of military property.]

SEC. 23. Repeal. [Unlawful armed assemblage.]

SEC. 24. Emergency. [Penalty for aiding or joining such.]

[SEC. 25. Repeal.]

[SEC. 26. Provision for officer, soldier, etc., wounded or disabled.]

[SEC. 27. When wounded or disabled under orders of sheriff or mayor.]

[SEC. 28. Expense of enrollment to be paid from military fund.]

[SEC. 29. Limitation of expenses.]

[SEC. 30. Emergency.]

State military board, how constituted.

SECTION I. The commander-in-chief, the adjutant-general, the inspector-general, the judge advocate-general, and the senior brigadier-general, shall constitute a military board, which shall convene whenever the commander-in-chief may order, or the public good may require.

Duties of board.

SEC. 2. It shall be the duty of the military board to consider all matters referred to them by the commander-in-chief relating to the organization, efficiency, discipline, equipments, ammunition, uniforms, armories and drill-rooms, and parades of the National Guard and militia, and to assist him with their counsel and advice.

National guard, and how maintained.

SEC. 3. The commander-in-chief shall maintain the Colorado National Guard by organizing new companies, troops, batteries and bands, and disbanding inefficient companies, troops batteries and bands, from time to time, as he shall deem expedient. Its system of discipline, exercise

and administration, save as otherwise expressly provided in this act, shall conform, as nearly as practicable, to that prescribed from time to time for the army of the United States. Discipline, exercise, and administration.

SEC. 4. Whenever, in any county, there is a tumult, riot, mob, or any body of men acting together with intent to commit a felony, or to do or offer violence to person or property, or by force and violence to break or resist the laws of the state, and the civil authorities are unable to suppress the same, or there is reasonable apprehension thereof, the commander-in-chief, or the sheriff of the county during the absence of the commander-in-chief from such county, may issue his call to the commanding officer of any regiment, battalion, company, troop or battery, to order his command, or any part thereof, describing the same, to be and appear at a time and place therein specified, to act in aid of the civil authority. Militia; when required to aid civil authorities

SEC. 5. The officer to whom the call is directed shall forthwith order the troops therein mentioned to parade at the time and place appointed; and if he neglect or refuse to obey, or if any officer refuses or neglects to obey any order issued in pursuance of such call, he shall be cashiered, and be further punished by a fine, not less than one hundred and not over one thousand dollars, or imprisonment not exceeding six months, or both, at the discretion of a court-martial; or a person who advises or endeavors to persuade an officer or soldier to refuse or neglect to appear at such place, or to obey such order, shall, on conviction thereof, be imprisoned not to exceed six months, or fine [fined] not to exceed one thousand dollars, or both, at the discretion of the court. All fines assessed under this section shall be for the benefit of the state military fund. Officer to order out troops. Penalty for refusal of officer to obey order.

SEC. 6. Whenever the commanding officer of a company, troop or battery orders out his command for such duty, he may order enlisted men to notify the men enrolled in such organization to appear at the time and place appointed, who shall give notice of such time and place of meeting to each man personally, or by leaving at his usual place of abode a written or printed order, signed by the Men, how notified to appear.

enlisted man serving the same, which notice shall be a sufficient warning.

Penalty for disobedience.

SEC. 7. Every enlisted man who refuses or neglects to serve such notice when duly ordered so to do, and every officer or enlisted man who, having been served with notice as provided in the preceding section, refuses or neglects to obey the same promptly, shall pay not less than ten nor more than one hundred dollars, at the discretion of a court-martial; such moneys so collected shall be for the benefit of the state military fund.

Blank forms by whom furnished, etc.

SEC. 8. The adjutant-general shall furnish to commandants of regiments, battalions, troops, batteries and unattached companies, blank forms of rolls, bonds and the different returns required to be made to [by] them; he shall, from time to time, explain the principles upon which returns should be made, and may make such general regulations concerning the same as will best promote uniformity in their rendition, and supply such practical details as are required to make the organization systematic and complete; and he shall keep the papers, volumes and records of the departments in an office provided by the state, and make and submit to the governor before each meeting of the general assembly, a report of all matters coming within his department.

To keep records, etc., and submit report to governor.

Adjutants and first sergeants to record returns, etc.

SEC. 9. Adjutants of regiments and battalions, and first sergeants of troops, batteries and companies, shall attend to, and record in books to be provided for that purpose, all returns made, and perform such other duties as may, from time to time, be required of them by the commandant of the organization. In case of their absence suitable persons shall be appointed to perform their duties.

Annual returns of company, regimental, and brigade commanders.

SEC. 10. The commanding officer of each company, troop or battery, shall annually, in March, return to the adjutant-general a muster-roll of his company, and shall, within ten days after each parade or encampment required by law, make return to the regimental or battalion commander of the state of his company, with the number enrolled therein, and of all their arms, uniforms, equipments

and ammunition; the commander of each regiment or battalion shall make like return thereof, with a roster of its commissioned officers, to the brigadier-general, within twenty days after each encampment or parade, who shall make like returns for the brigade, with a roster of its commissioned officers, to the adjutant-general, on or before the first day of December, annually. The adjutant-general may order such additional returns and muster-rolls as he may deem expedient.

SEC. 11. Every officer, or other person having the custody or control of military property of this state, or money of its military fund, or having control of the transportation or subsistence of the militia of this state, shall, from time to time, make report in such form, and to such departments as the regulations may require.

SEC. 12. Every person having custody of the funds of any military organization shall enter into bond in twice the amount likely to be held in his hands at any time, but never in less amount than one hundred dollars, with not less than two good and sufficient sureties, to be approved by the justice of the peace of the proper township, payable to the State of Colorado; for the use of such organization, for the faithful and honest discharge of his duties and the careful keeping and disbursement of said funds according to its by-laws.

SEC. 13. The governor shall, from time to time, cause such numbers of this act as he may deem necessary to be printed, and the same shall be distributed to the "National Guard" by the adjutant-general.

SEC. 14. Whoever in the day or night season breaks or enters any building where military property of the state or of the United States is kept, shall be deemed guilty of burglary and punished accordingly.

SEC. 15. The assistant inspectors-general shall give bonds, each in the sum of fifteen hundred dollars for the faithful performance of their duties as paymasters of the "National Guard."

SEC. 16. Transportation to and from annual encampments, subsistence, medical supplies for encampments and

Additional returns.

Certain reports required.

Treasurers of organizations to give bonds.

Copies of this act to be printed and distributed.

Penalty for breaking into military store-houses.

Paymaster's bonds.

Transportation, etc., to encampments, how paid.

ammunition used thereat, shall be paid for from the state military fund.

Compensation
for parades.

SEC. 17. All companies, troops and batteries are entitled to pay for parades when made under proper authority; *Provided*, that the total number of days so paid for in any one year, including those spent in encampment, shall not exceed ten.

Allowance for
attendance on
courts martial.

SEC. 18. Officers ordered on courts-martial, either from general or brigade headquarters, or witnesses in attendance thereon, shall be entitled to pay under section twelve, of article seven, of this act, and mileage in going to and returning therefrom.

Freedom from
arrest.

SEC. 19. No person belonging to the military forces of the state shall be arrested on any civil process while going to, remaining at, or returning from any place at which he may be required to attend for military duty.

Free passage
over toll-roads,
etc.

SEC. 20. All persons belonging to the military forces of the state, going to or returning from any parade, encampment, drill or meeting, which they may be required by law to attend, shall, together with their conveyances and the military property of the state, be allowed to pass free through all toll gates and over all toll bridges and roads.

Exemptions.

SEC. 21. Every member of the Colorado National Guard shall be exempt from jury duty during his term of service, and every such person who shall have so served three years and been honorably discharged, shall forever after be exempt from involuntary jury duty.

Recovery of mili-
tary property.

SEC. 22. Any person who shall purchase, retain or have in custody or possession, without right, any military property belonging to the state, and shall, after proper demand, refuse to deliver the same to any officer entitled to take possession thereof, shall be liable to an action for the recovery of such military property, and to a penalty of not less than ten nor more than one hundred dollars.

Unlawful armed
assemblage.

SEC. 23. It shall not be lawful for any body of men whatsoever, other than the regularly organized national guard or militia, or the troops of the United States, to associate themselves together as a military company or organization,

or to parade in public with arms, in any city or town in the state, without the license of the governor therefor, which may at any time be revoked, nor shall it be lawful for any city or town to raise or appropriate any money towards arming, equipping, uniforming, or in any way supporting or sustaining, or providing drill rooms or armories for any such bodies of men.

Unlawful for city or town to aid body of men not regularly organized.

SEC. 24. Whoever offends against the provisions of the preceding section, or belongs to or parades with any such unauthorized body of men with arms, shall be punished by a fine not exceeding the sum of ten dollars, or by imprisonment for a term not exceeding six months.

Penalty for aiding or joining such.

SEC. 25. Chapter sixty-five (65) of the General Laws of Colorado is hereby repealed.

Repeal.

SEC. 26. Every officer or soldier wounded or disabled, and the widow and children of every officer or soldier killed while in the service of the state, shall be suitably provided for by the General Assembly.

Provision for officer, soldier, etc., wounded or disabled.

SEC. 27. Every officer or soldier wounded or disabled while in the service, and under the orders of the sheriff of any county, or mayor of any city, shall be taken care of and provided for at the expense of the county where such service was rendered.

When wounded or disabled under orders of sheriff or mayor.

SEC. 28. The enrollment of the militia provided for in section two of this act, shall be made at the expense of the military fund; and the treasurer in each county shall deduct all necessary expense in making such enrollment, from any militia fund so collected.

Expense of enrollment to be paid from military fund

SEC. 29. Except expenses incurred in case of any troops being out for actual service, no liability shall be incurred under this act other than [may] be paid out of the military fund hereby provided. The military board shall take care [that] the provisions of this section be not violated.

SEC. 30. The consent of the senate being required in certain appointments under this act, and the good of the service requiring it, this act shall take effect from and after its passage.

Emergency.

Approved February 8, 1879.

AN ACT

Relating to Location and Representation of Placer Mining Claims.

Be it enacted by the General Assembly of the State of Colorado :

Location certificate, what to contain.

SECTION 1. The discoverer of a placer claim shall, within thirty days from the date of discovery, record his claim in the office of the recorder of the county in which said claim is situated, by a location certificate, which shall contain: First, the name of the claim, designating it as a placer claim; second, the name of the locator; third, the date of location; fourth, the number of acres or feet claimed, and fifth, a description of the claim, by such reference to natural objects or permanent monuments as shall identify the claim. Before filing such location certificate the discoverer shall locate his claim: First, by posting upon such claim a plain sign or notice, containing the name of the claim, the name of the locator, the date of discovery, and the number of acres or feet claimed; second, by marking the surface boundaries with substantial posts, and sunk into the ground, to-wit: one at each angle of the claim.

Claim, how located.

Annual assessment.

SEC. 2. On each placer claim of one hundred and sixty acres or more, heretofore or hereafter located, and until a patent has been issued therefor, not less than one hundred dollars worth of labor shall be performed or improvements made by the first day of August, 1879, and by the first day of August of each year thereafter. On all placer claims containing less than one hundred and sixty acres, the expenditure during each year shall be such proportion of one hundred dollars as the number of acres bears to one hundred and sixty. On all placer claims containing less than twenty acres, the expenditure during each year shall not be less than twelve dollars; but when two or more claims lie contiguous, and are owned by the same person, the expenditure hereby required for each claim may be made on any one claim; and upon a failure to comply with these conditions, the claim or claims upon which such failure occurred shall be open to re-location in the same

Claim liable to re-location upon failure to work assessment.

manner as if no location of the same had ever been made; *Provided*, that the original locators, their heirs, assigns, or Proviso. legal representatives, have not resumed work upon the claim after failure and before such location; *Provided*, the aforesaid expenditures may be made in building or repairing ditches to conduct water upon such ground, or in making other mining improvements necessary for the working of such claim. Upon the failure of any one of several co-owners to contribute his proportion of the expenditures re- Failure of one of several co-owners. quired hereby, the co-owners who have performed the labor, or made the improvements, may, at the expiration of the year, to-wit: the first of August, 1879, for the locations heretofore made, and one year from the date of locations hereafter made, give such delinquent co-owner personal notice in writing, or, if he be a non-resident of the state, a notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and mailing him a copy of such newspaper, if his address be known, and if, at the expiration of ninety days after such notice in writing, or after the first publication of such notice, such delinquent should fail or refuse to contribute his proportion of the expenditure required by this action, his interest in the claim shall become the property of his co-owners who have made the required expenditures.

The foregoing act was filed in the office of the secretary of state, by the governor, March 12, 1879, without his signature, and became a law under section eleven, of article four, of the Constitution of the State of Colorado.

AN ACT

Giving consent to the Acquisition by the United States of Land for Public Uses in the State of Colorado.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That the consent of the State of Colorado Consent to acquisition of lands by United States is hereby given to the acquisition by the government of the

Lands and
improvements
exempt from
taxation

United States, by purchase under the laws of this state, of the legal title to any land in the City of Denver or vicinity, in this state, not set apart for public use, the title thereof being in private hands at the date of the passage of this act, for the purpose of erecting thereon a building or buildings, and occupying said premises as a connecting station between and of points for geographical surveys west of the one hundredth meridian of longitude, by the war department of the United States, in accordance with the constitution and laws of the said United States, and the lands so acquired, and the structures, improvements and buildings which are or may be placed thereon, shall be forever exempt from taxes imposed by this state, or any authorities under it.

Right to execute
process reserved.

SEC. 2. The right to execute the civil and criminal process of this state upon and within the premises which may be acquired by the United States under this law, is hereby reserved to the state.

Approved January 23, 1879.

AN ACT

To Protect Natural Scenery from Defacement by Advertisement, etc., and to define the penalty for so doing.

Be it enacted by the General Assembly of the State of Colorado:

Penalty for de-
facing natural
scenery.

SECTION 1. Any person who shall paint or print upon, or in any other manner place upon or affix to any stone or rock, or to any bridge, tree or upon the ground, any letter, character or device stating, referring to or advertising, or intended to state, refer to or advertise, the sale or manufacture of any property or article, profession, business, exhibition, amusement or place of amusement, or other thing, and any person who shall, directly or indirectly, cause any such act to be done, or shall aid therein, shall be deemed guilty of a misdemeanor, and upon conviction shall, for each and every offense, be punished by a fine not less than

fifty dollars (\$50), nor exceeding three hundred dollars (\$300), for each separate offense, or by imprisonment not to exceed six (6) months, nor less than one (1) month, or by both such fine and imprisonment.

SEC. 2. Every such person shall, moreover, be liable, Person defacing liable to action for damages. whether before or after conviction, to an action in favor of any person, the State of Colorado, or the United States, owning or possessing any land or premises upon which any such act has been done, in which action damages may be recovered of not less than ten dollars (\$10) in addition to five (5) times the amount of actual damages sustained.

Nothing in this act shall apply to any word, letter, In what cases this act need not apply. character or device relating to any sale, manufacture, profession, business, exhibition or amusement held, carried on, or to take place upon the lands or premises owned or possessed or hired for the purpose by the person who shall have by himself, or by any other, painted, printed, placed or affixed the same.

SEC. 3. In addition to the penalty provided by section one of this act, it shall be the duty of the county commissioners of the county wherein any such advertisement appears to have the same effaced, and to bring an action for the benefit of such county against any of the owners, managers or proprietors of the property, articles, profession, business, exhibition, amusement, or other thing relative to which such words, letters, characters or devices may have been painted, printed, placed or affixed as aforesaid, for the amount of the expenses of effacing the same, and the costs and expenses incident to such action. County commissioners to have advertisements effaced, and to bring action.

SEC. 4. The fact that such act has been aided, or How defacement proven caused, or authorized to be done by any such owner, manager or proprietor shall, in any action to be brought as hereinbefore authorized, as a legal presumption be deemed to be proved against such owner, manager or proprietor, by the fact that such words, letters, characters or devices painted, printed, placed or affixed as aforesaid, has or have been seen by any one.

SEC. 5. If any person shall maliciously use the name

Penalty for use
of another's
name in on un-
lawful advertise-
ment.

of another without his authority in any such unlawful advertisement, he shall be liable to such person whose name is thus used in thrice the amount of damages he has caused him to suffer, and be deemed guilty of a misdemeanor, and on conviction be punishable by double the imprisonment and fine provided in section one of this act.

Approved January 27, 1879.

AN ACT

To amend Chapter LXXII (72) of the General Laws.

Be it enacted by the General Assembly of the State of Colorado :

SECTION 1. That chapter seventy-two (72) of the General Laws be amended to read as follows, viz.:

All officers required by any law of the state to make reports to the governor or legislature, shall deposit the same with the governor on or before the tenth day of December next preceding the regular session of the general assembly; and it shall be the duty of the secretary of state to place said reports, without delay, in the hands of the person authorized to do the public printing, for publication, and to superintend the printing of the same, and to see that it is done in a proper manner. Of each of the reports of said officers there shall be published two hundred and fifty (250) copies, for the use of the general assembly and the state officers.

Approved February 11, 1879.

AN ACT

To amend Chapter LXXIV. of the General Laws of 1877,
concerning the Partition of Estates.

Be it enacted by the General Assembly of the State of Colorado :

SECTION 1. That in making partition of any estate, Division to be made in the most equitable manner it shall be the duty of the commissioners appointed by any court for such purpose, to set apart the same in such lot or lots as will be most advantageous and equitable, having due regard to the improvements, situation and quality of the different parts of such estate or estates.

SEC. 2. That when partition of two or more tracts of Partition of two or more tracts. real estate is demanded in the petition, the whole share in and to all the several tracts, of any party, may, according to the best judgment and discretion of said commissioners, be set off to him, in one or more of said tracts, as the said party's interests may appear.

SEC. 3. All acts or parts of acts inconsistent with this Repeal. act are hereby repealed.

Approved February 14, 1879.

AN ACT

To amend Section Two of an act entitled An Act to provide for the Maintenance, Government and Police of the Penitentiary; also the mode of Appointing Officers, and fixing the Salary of the same, and to Repeal several acts relating thereto.

Be it enacted by the General Assembly of the State of Colorado :

[SECTION 1.] Said section two as amended, reading as follows, to-wit:

2016. SECTION 2. The government of the penitentiary Appointment and term of office of commissioners shall be vested in a board of commissioners composed of three persons, who shall be appointed by the governor, by

and with the advice and consent of the senate, no two of whom shall reside in the same judicial district; said commissioners shall hold their office for the term of six years, and until their successors are duly qualified, unless sooner removed by the governor for neglect of duty or other misconduct. Any two of said commissioners shall constitute a quorum for the transaction of business.

Term of first
appointees.

[SEC. 2.] 3d. The first board of said commissioners appointed in pursuance to this act, shall be appointed as follows, to-wit: One for the period of two years, one for the period of four years, and one for the period of six years. The governor in making said appointments shall designate the term for which such appointee shall serve, and at the end of such term all appointments shall be made for the term of six years, as herein provided.

Emergency.

[SEC. 3.] SEC. 2. Whereas, the appointment of said commissioners has to take place at an early day, in the opinion of this General Assembly an emergency exists, therefore this act shall take effect and be in force from and after its passage.

Approved February 8, 1879.

AN ACT

To amend Section One, of Chapter Seventy-seven (77), of the General Laws of Colorado, entitled "Penitentiary."

Be it enacted by the General Assembly of the State of Colorado:

[SECTION 1.] That section one (1), of chapter seventy-seven (77), of the General Laws of Colorado, entitled "Penitentiary," be, and the same is hereby amended so as to read as follows, to-wit:

Deduction from
time of sentence
for faithful per-
formance of
duties.

That every convict who is now, or may hereafter be imprisoned in the penitentiary, and who shall have performed faithfully, and all who shall hereafter perform faithfully, the duties assigned to him or her during his or her imprisonment therein, shall be entitled to a deduction from

the time of his or her sentence for the respective years thereof, and proportionately for any part of a year, when there shall be a fractional part of a year in the sentence, to-wit:

For the first year, one month; for the second year, two months; for the third year, three months; for the fourth year, four months; for the fifth year, five months; for the sixth and each succeeding year, six months; *Provided*, that if any convict shall escape, or attempt to escape from the penitentiary, he or she shall forfeit and lose any and all deductions from the time of his or her sentence which he or she may have been entitled to up to the time of the escape or attempted escape, as provided for in this section.

Approved February 8, 1879.

AN ACT

To amend Section Forty-two (42) of an act entitled An Act to provide for the Maintenance, Government and Police of the Penitentiary; also the mode of Appointing Officers and fixing the Salary of the same, and to repeal several acts relating thereto, said section so amended to read as follows, to-wit:

Be it enacted by the General Assembly of the State of Colorado:

[SECTION I.] 2056. SEC. 42. The warden shall collect the wages earned by the convicts, and all other moneys due or belonging to the penitentiary, except from appropriations from the state, and shall pay the same over to the state treasurer, to be placed to the credit of the penitentiary fund, taking a duplicate receipt for the same, one copy of which he will give to the secretary of the board of commissioners; *Provided*, that all moneys so paid over to said treasurer may be drawn out of said treasury upon proper vouchers of the board of commissioners, and used for necessary expenses, in the same manner as a regular appropriation.

Warden to collect wages of convicts, etc.

Moneys so collected how drawn and used.

Approved February 13, 1879.

AN ACT

Giving Justices of the Peace Jurisdiction in the action of Replevin, and regulating the practice therein.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Justices of the peace shall have jurisdiction for the recovery of specific personal property not exceeding three hundred dollars in value, as herein provided.

Affidavit and its
requisites.

SEC. 2. The plaintiff, his agent or attorney, shall file an affidavit in the office of the justice showing: *First.* That the plaintiff is the owner of the property claimed, particularly describing it, or is lawfully entitled to the possession thereof. *Second.* That the property is wrongfully detained by the defendant. *Third.* The alleged cause of the detention thereof, according to his best knowledge, information and belief. *Fourth.* That the same has not been taken for a tax assessment or fine, pursuant to a statute, or seized under an execution or an attachment against the property of the plaintiff; or, if so seized, that it is by statute exempt from such seizure. *And fifth.* The real value of such property.

Undertaking of
plaintiff.

SEC. 3. The plaintiff shall also file with such justice an undertaking in not less than double the amount of the property sought to be replevied, signed by one or more good and sufficient sureties, to the effect that the plaintiff shall duly prosecute the action and pay all the costs and damages which may be awarded against him, and if the property be delivered to him, that he will return the same to the defendant if a return thereof be adjudged.

Writ.

SEC. 4. When said affidavit and undertaking are duly filed, the justice shall issue a writ directed to a constable commanding him to instantly seize and take into his custody, wherever they may be found in his county, the goods and chattels mentioned in the affidavit of the plaintiff; and to summon the defendant to appear at a specified time and place, not less than five days and not more than fifteen days from the date of said writ.

Writ, how
executed.

SEC. 5. The constable shall execute the writ by taking

into his possession the goods and chattels mentioned in the writ. He shall also deliver a copy of the writ to the defendant, or leave a copy at his usual place of residence, with some person over the age of twelve years, and shall make return upon said writ of the time and manner of service and any undertaking taken by him.

SEC. 6. If, within twenty-four hours after the service of the copy of the writ, there is executed on the part of the defendant, by two or more sufficient sureties, an undertaking to the plaintiff in not less than double the value of the property, as stated in the affidavit of the plaintiff, to the effect that the defendant will deliver the property to the plaintiff if such delivery be adjudged, and will pay all costs and damages that may be awarded against him in the action, the constable shall return the property to the defendant. If such undertaking be not given within twenty-four hours after the service of the writ, the constable shall deliver the property to the plaintiff.

SEC. 7. If the justice or constable in any case shall take an insufficient undertaking, such justice or constable shall be liable on his official bond for all damages which may be sustained by either party by reason thereof.

SEC. 8. The value of the property shall not be assessed against the defendant at a greater amount than that sworn to by the plaintiff in his affidavit.

SEC. 9. If the property has been delivered to the plaintiff, and he fails to prosecute his action to final judgment, the justice shall, upon demand of the defendant or his attorney, inquire into the value of the property and render judgment against the plaintiff and the sureties on his undertaking for the return of the property, or, in case a return of the property cannot be made, for the value of the same, the damages for the withholding thereof and for costs of the suit.

SEC. 10. In all cases where the property has been delivered to the plaintiff, when the justice shall find for the defendant, he shall also find: *First*. Whether the defendant had the right of the property at the time of commencing

the action. *Second*, Whether the defendant had the right of possession of the property at the commencement of the action. And if he find the first fact in favor of the defendant, he shall also find the value of the property; or if he find the second fact in favor of the defendant, he shall find the value of the possession of the property; and he shall also find such damages for withholding the property, as may be just and proper. Such findings shall be entered by the justice upon his docket, and he shall render judgment in accordance therewith.

Judgment for damages and costs, when rendered for.

SEC. 11. In all cases where the property has been delivered to the plaintiff, when the justice shall find for the plaintiff on the trial, he shall render judgment that the plaintiff retain the property, together with damages for the illegal detention of the property by the defendant, and costs of suit.

Proceedings when property has not been taken.

SEC. 12. When the property claimed has not been taken, the action may proceed as one for damages only, and the plaintiff shall be entitled to such damages as may be right and proper.

Execution of writ when property is in building or concealed

Proviso.

SEC. 13. The constable in executing the writ may break open any building or enclosure in which the property claimed, or any part thereof, is concealed; but not until he has been refused an entrance into such building or enclosure, and a delivery of the property after having demanded the same; *Provided*, That when the property described in the writ of replevin so directed to such constable shall be in the custody of a sheriff or other officer, under or by virtue of any process issued from a court of record in this state, then such constable shall not seize and take such property; but shall return the fact that such property is in the custody of a sheriff or other officer (naming him), under such process as the case may be, which return of such constable to his said writ of replevin shall be a sufficient return thereto.

Concealment of property.

SEC. 14. Whenever it shall be made to appear to the satisfaction of the justice by the affidavit of the plaintiff, or otherwise, that the defendant or any other person know-

ingly conceals the property sought to be recovered, or having control thereof, refuses to deliver the same to the officer, the justice may commit such defendant or other person until he or they disclose where such property is, or deliver the same to the officer.

SEC. 15. In all trials arising under this act the parties Jury trial. shall be entitled to a jury trial upon the same conditions that jury trials are had in other cases before a justice of the peace. And, when the trial is by a jury, the justice shall require the jury to find and return in their verdict the same facts which he is required to find in section ten (10) of this act; and the justice shall record such findings in his docket, and render judgment in accordance therewith.

SEC. 16. In cases where the property has been delivered Execution for damages and costs. to the plaintiff, and when the justice gives judgment for the plaintiff for damages for withholding the property, he shall issue execution against the defendant for such damages and costs of suit.

SEC. 17. In cases where the property is retained by the defendant, and the justice gives judgment for the plaintiff, he shall issue an execution commanding the constable to take possession of the property and deliver the same to the plaintiff; or, if such delivery cannot be made, then to make the value of the property as found by the justice or jury from the defendant; and said execution shall also be for the damages for withholding the property and for costs of suit. Execution for redelivery, when; for non delivery, when.

SEC. 18. In cases where the property has been delivered Judgment for value of possession. to the plaintiff, if the justice find that at the time of commencing the action the defendant had the right of the possession of the property, and such right of possession has since terminated, and that at the time of the trial the plaintiff has such right of possession, in that case the property shall remain with the plaintiff, and the judgment shall be for the value of the possession of the property as found by the justice, and for costs of suit, and execution shall issue therefor.

SEC. 19. In all cases under this act, the parties Appeals.

shall be entitled to the right of appeal in the same manner and upon the same conditions as provided in other cases before a justice of the peace.

Emergency.

SEC. 20. Whereas, the first General Assembly of this state, by inadvertance, repealed the law giving jurisdiction to justices of the peace in matters of replevin, whereby much inconvenience and loss is continually occurring to the citizens of this state, it is the opinion of this General Assembly that an emergency exists requiring this act to take effect immediately, therefore this act shall take effect immediately after its passage.

Approved February 8, 1879.

AN ACT

To amend an act entitled An act to provide for the Assessment and Collection of Revenue, and to Repeal certain acts in relation thereto, approved March 20, 1877.

Be it enacted by the General Assembly of the State of Colorado :

SECTION 1. That section forty-four (44) of said act be and the same is hereby amended so as to read as follows, to-wit :

Auditor shall transmit statement to county clerk. Rate of tax.

On or before the first day of September in each year, the auditor shall transmit to the clerk of each county a statement of the changes, if any, which have been made in the assessments, and the rate of state tax which is to be levied and collected within his county; which, however, shall not exceed three mills on the dollar of the valuation, and when the board fixes no different rate, or if for any reason the board fail to sit, or the county clerk should fail to receive the statement of the rate of tax ordered by them, that rate shall be deemed to be levied; and the clerk of each county in making up the tax list required by this act, shall compute and carry out in the proper column a state tax at the rate aforesaid; *Provided, however*, that for the years 1879 and 1880, the rate of taxation shall be, for state

Rate for 1879 and 1880.

purposes, four mills on the dollar, unless the state board of equalization shall fix a lower rate.

Any clerk failing herein may be fined in any sum not less than five hundred nor more than three thousand dollars, to be recovered by action of debt in the name of the people of the state of Colorado, in any court of competent jurisdiction.

Penalty in case
of failure of clerk
to comply with
law.

SEC. 2. That section forty-six (46) of said act be and the same is hereby amended so as to read as follows, to-wit:

As soon as practicable after the taxes are levied, the clerk shall make out a tax-list, in a book provided by the county for that purpose, and in alphabetical order, having columns for names of owners, description and value of real estate, value of personal property, total amount of taxes, delinquent taxes and remarks; *Provided*, that the county clerk shall, at the end of the tax book, pro-rate the total amount of the taxes levied to the several funds. Said list may be in the following form:

Clerk shall make
tax-list.

SEC. 3. That section forty-eight (48) of said act be, and the same is hereby amended so as to read as follows, to-wit:

The treasurer, on receiving the tax list and warrant, shall proceed to collect the tax therein levied, and the list and warrants shall be his authority and justification against any illegality in the proceedings prior to receiving the list. He shall, upon the last day of each month, pro rate the total amount of the taxes collected during the month to the several funds.

SEC. 4. That section sixty-nine (69) of said act be, and the same is hereby amended so as to read as follows, to wit:

On the day designated in the notice of sale, the county treasurer shall commence the sale of those lands and town lots on which the taxes and charges have not been paid, and shall continue the same from day to day, Sundays excepted, until each parcel shall be sold, or so much of each parcel as shall be sufficient to pay the taxes and charges thereon, including all costs and penalties. If there shall be no bid for any tract offered, the treasurer shall pass it over for the time and shall re-offer it at the beginning of the sale next day, until all the tracts are sold, or until the treasurer shall become satisfied that no more sales can be effected, when it shall become his duty to bid off for the county the lands and town lots remaining unsold, for the amount of such taxes, interest and costs thereon. When the county treasurer has so bid off any tract of land or town lot for the county, he shall issue to the county a certificate of purchase as provided for in section seventy-eight (78) of this act. Any person may, at any time within three years from the date of such certificate, deposit with the treasurer of such county the total amount due upon such certificate due and unpaid, and interest thereon since the date of such certificate, whereupon the clerk of the county shall assign such certificate to such person, and the treasurer shall give such person a receipt for any and all subsequent taxes and interests paid by such person, and thereupon such person shall be entitled to all rights and privileges the same as though he were an original purchaser at the tax sale. No taxes assessed against any lands purchased by the county under the pro-

Treasurer's duty
and authority.

Sale, when com-
menced and how
long continued.

When Treasurer
may bid off lands
for County

Treasurer shall
issue certificate
of purchase to
county.

Any person may
become the pur-
chaser of lands
bid off by county.
When and how.

When taxes as-
sessed against
lands bought by
county shall be
payable.

visions of this section shall be payable until the same shall have been derived by the county from the sale or redemption of such lands.

SEC. 5. That section ninety (90) of said act be, and the same is hereby amended so as to read as follows, to-wit:

Redemption of
lands of minors,
idiots and insane

In order to make redemption of lands of minors, idiots, or insane persons, after the execution of the tax deed, such minor, idiot or insane person, or some person in his behalf, shall pay to the county treasurer the sum for which such lands were sold, and the cost of the tax deed and the recording of the same, with twenty-five per cent. on the same, with interest thereon from the date of such sale at the rate of twenty-five per cent. per annum, and all other taxes, costs and charges which shall remain unpaid on such lands at the time of making such redemption, assessed thereon subsequent to the date of the assessment of the taxes for which the same was sold, and all other taxes assessed subsequent to the date last aforesaid, which shall have been paid by the person to whom said lands were sold, or by any other person claiming under him, with interest thereon at the rate of twenty-five per cent. per annum from the date of such payment, so far as such payments can be ascertained from the books and records in the office of such treasurer; and should the person to whom such lands were sold, or any other person claiming under him, have put on improvements necessary to enable him to farm, or raise stock upon said land, the person redeeming said land shall pay for said improvements, said improvements to be appraised by three disinterested persons, to be appointed by the board of county commissioners; *Provided*, that the improvements shall not exceed in value the sum of five hundred dollars to each eighty or one hundred and sixty acre lot; and for all the moneys so paid the treasurer shall give a certificate of redemption to the person making such payments. From the time of making the redemption hereinbefore provided, the deed given upon the sale shall be void as against such minor, idiot or insane person, and all persons claiming under him.

Approved February 19, 1879.

AN ACT

“To provide for the Method of Collecting and Keeping Account of Moneys Collected for State Institutions.”

Be it enacted by the General Assembly of the State of Colorado :

SECTION 1. All taxes collected for state institutions in each year, shall be combined under one head and entered by the clerk of each county of this state upon the tax list, under the head of state institutions, in one column.

SEC. 2. All taxes for state institutions shall be collected and receipted for by the treasurer of each county as tax for state institutions; and it shall be the duty of the county treasurer of each county, at the end of each month, to divide the fund for state institutions, giving to each state institution its respective share, and shall credit the same to the state treasury.

Approved February 4, 1879.

AN ACT

Authorizing Counties to Cancel certain Uncollectable Taxes.

Be it enacted by the General Assembly of the State of Colorado :

SECTION 1. All taxes of any kind, assessed in any county of this state, that have been delinquent for a period of six years, may be cancelled by the county commissioners in their respective counties; *Provided*, the county commissioners are satisfied that said taxes are uncollectable. Cancellation of delinquent taxes.

SEC. 2. That it shall be the duty of the county commissioners, when taxes are cancelled as provided for in section one, to report the same to the auditor of state, who shall give the county credit for the amount of state taxes so cancelled. County commissioners to report taxes cancelled to state auditor.

Approved February 12, 1879.

AN ACT

To amend Chapter Three of the General Laws of the State of Colorado, entitled "An Act to provide a Fund for the Building and Maintenance of the Agricultural College of Colorado."

Be it enacted by the General Assembly of the State of Colorado:

Amount of tax to
be levied and
collected.

[SECTION 1.] That section one of said chapter three be amended so as to read as follows: SEC. 1. That there shall be levied and assessed upon all taxable property, both real and personal, within this state, in the year [years] 1879 and 1880, the following tax for the building and support of the agricultural college. One-fifth of one mill on each and every dollar, to be known as the agricultural college tax, and to be assessed and collected in the same manner and at the same time as is now or may be prescribed by law for the assessment and collection of state revenues.

How fund shall
be applied.

SEC. 2. That section three of said chapter be amended so as to read as follows: The fund so created shall be applied exclusively for the support of the agricultural college of this state, and for the erection of such buildings as by the state board of agriculture shall be deemed advisable.

Approved February 3, 1879.

AN ACT

To provide a Revenue for the Support of the School of Mines at Golden, and to Repeal Section Twelve, of Chapter Ninety-one, of the General Laws.

Be it enacted by the General Assembly of the State of Colorado:

Levy for support
of school of
mines.

SECTION 1. That for the years 1879 and 1880 there shall be assessed and levied upon all taxable property, both real and personal, in this state, in each of said years, the following tax for the support of the school of mines, located

at Golden, to-wit: One-fifth (1-5) of one mill on each dollar of the yearly assessed value of such property, to be known as the school of mines tax, which shall be payable only in money, and shall be assessed, levied and collected in the same manner and at the same time in each year as is now or may hereafter be prescribed for the assessment and collection of state revenue.

SEC. 2. The money raised by said tax shall be used ^{Money, how used.} for no other purpose than those purposes specified in said chapter ninety-one of the General Laws, and shall be paid out by the state treasurer in the manner provided by section fourteen, of chapter ninety-one, of the general laws.

SEC. 3. Section twelve, of chapter ninety-one, of the ^{Repeal.} General Laws of this state, is hereby repealed.

Approved February 8, 1879.

AN ACT

To amend Chapter Eighty-eight of the General Laws, entitled "An Act Concerning Roads and Public Highways."

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Section twenty-three (23), of chapter eighty-eight (88), of the General Laws, is hereby amended ^{Levy and collection of property tax for road purposes.} so as to read as follows: SECTION 23. The board of county commissioners of the respective counties of the state may levy a property tax for road purposes, which shall not exceed one dollar on each one hundred dollars, to be levied and collected in the same manner and at the same time as other property taxes are levied and collected, in each year; but all property included within the limits of incorporated towns or cities shall not be subject to such tax.

SEC. 2. Section twenty-four (24), of chapter eighty-eight (88), of the General Laws, is hereby amended so as to read as follows:

SEC. 24. Every able-bodied man, between the ages of

Who subject to
payment of road
tax; amount of
labor in lieu
thereof.

Neglect to pay
tax or perform
labor.

Proviso.

Manner of
changing roads
and laying out
new ones.

twenty-one and fifty years, shall each, annually, pay to the overseer of roads of the district wherein he resides a road tax of three dollars, or in lieu of such tax shall perform two days' labor upon the public roads, whenever notified by the overseer of roads, as herein provided. If any person required by this section to pay a road tax or perform labor in lieu thereof shall neglect to make such payment or perform such labor prior to the first day of November in any year, it shall be the duty of the overseer of roads to report such delinquency to the county treasurer of the county, who is hereby authorized and required to collect the amount of such delinquency from the delinquent in the same manner as other taxes are collected, and to pay the same over to the overseer of roads of the road district in which the same is due and payable; *Provided*, such road overseer may proceed to collect such tax at any time before the first day of November in each year, as authorized by law; *Provided*, the provisions of this section shall not apply to incorporated cities or towns.

SEC. 3. Any person wishing to have any public highway changed, or a new highway laid out or located in any of the counties of this state, shall petition the board of county commissioners, which petition shall state the change asked to be made, giving the point of starting and the terminus thereof; and the said petition shall be signed by not less than ten persons who reside within two miles of that part of the road sought to be changed; and the petitioners shall deposit with the clerk of the county a sufficient sum to defray the expenses of viewing the proposed road, to be fixed by the board of commissioners, such sum to be paid into the county road fund in case the prayer of the petitioners shall be refused; otherwise, it shall be returned to the person depositing the same; and if such highway or proposed highway be on the line between two counties, the boards of county commissioners of both such counties shall be petitioned, and the concurrence of both such boards shall be required to establish it. In such case, each county shall open and maintain a definite part of the road, to be apportioned by mutual agreement between the said

boards; *Provided, however*, that the board of county commissioners may waive the payment of the cash deposit hereinbefore required at the time of filing the petition aforesaid, and shall accept in lieu thereof a good and sufficient bond conditioned for the payment of the expenses hereinbefore referred to, should the same accrue to the petitioner.

Approved February 18, 1879.

AN ACT

To amend an act entitled "An Act to Establish and Maintain a system of Free Schools," Approved March 20th, A. D. 1877.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section nine (9) of said act (being section 2,455 of General Laws of 1877) shall be amended to read as follows, viz.:

"SEC. 9. He shall have a general supervision Furnish blanks, registers, &c. of all the county superintendents and of the public schools of the state. He shall prepare, have printed and furnish to teachers and all officers charged with the administration of the laws relating to public schools, such blank forms, registers and books as may be necessary to the discharge of their duties, but he shall not copyright such forms, nor be directly nor indirectly compensated by reason of the sale thereof. All registers and blank books so furnished for the use of teachers and school officers shall be charged to the respective counties at cost, and the county superintendent of schools shall receipt for and distribute the same among the districts of his county as they may require; and the amount so charged against each county shall be deducted from the amount apportioned to such county at the semi-annual apportionment of the state school fund; and the superintendent of public instruction shall certify to the state treasurer the aggregate amount of such deductions, and

Such supplies to be charged to counties and deducted from state fund.

the treasurer shall thereupon transfer said amount from the school fund, subject to apportionment, to the general fund.

Publication of
school law.

The superintendent of public instruction shall have the laws relating to public schools printed in pamphlet form, and annexed thereto forms for making reports and conducting school business, and shall supply school officers, school libraries and state libraries with a copy each. Said printing to be paid for out of the printing fund on warrant of the auditor, on bills approved by the superintendent of public instruction, and attested by the secretary of state."

SEC. 2. That section fifteen (15) of said act (being section 2,461 of General Laws) be amended to read as follows, viz.:

Quarterly exam-
ination.

"SECTION 15. On the last Friday of February, May, August and November in each year, he shall meet all persons desirous of passing an examination as teachers in some suitable room at the county seat, notice of which shall be given in some newspaper in the county, or, in case there is no paper published in the county, he shall give such notice as may by him be deemed necessary; at which time he shall examine all such applicants in orthography, reading, writing, arithmetic, English grammar, geography, the history of the United States, including the Constitution of the United States, physiology, laws of health, the elements of the natural sciences, theory and practice of teaching, and the school law of the state. If the applicant is to teach in a school of high grade, the examination shall extend to such additional branches of study as are to be pursued in such school. If satisfied of the competency to teach, and of the good moral character of the applicant, he shall give such applicant a certificate as provided in the following section, but he shall not issue a certificate, except a temporary one, unless the applicant be examined at the regular quarterly examination."

Certificates

Annual report.

SEC. 3. That section eighteen (18) of said act (being section 2,464 of General Laws), be amended to read as follows, viz.:

"SECTION 18. On the first Tuesday of October in each year, the county superintendent shall make a report

to the state superintendent for the school year which ended August thirty-first next preceding, which report shall contain an abstract of the reports made to him by the district secretaries, together with a statement of the financial affairs of his office and of such other matters as the state superintendent shall direct, or as he himself may deem essential in exhibiting the true condition of the schools under his charge, and he shall retain a copy of all such reports and file the same in his office."

SEC. 4. That section twenty (20) of said act (being section 2,466 of the General Laws), be amended to read as follows, viz.:

"SECTION 20. It shall be the duty of the county superintendent to exercise a careful supervision over the schools of his county; to visit each school once each quarter it is in session; to see that all the provisions of this act are observed and followed by teachers and school officers; to examine the accounts of the district officers to see if such accounts are properly kept and all district funds properly accounted for; to keep in a good and substantial bound book a record of his official acts, and of other matters required by law to be recorded; to obey the legal instructions of the state superintendent, and to exhibit his books and report the financial condition of his office to the board of county commissioners, on or before the first Monday in July in each year, and shall cause the same to be published in some newspaper of his county, on or before the close of the school year."

SEC. 5. That section twenty-seven (27) of said act (being section 2,473 of General Laws) be amended to read as follows, viz.:

"SECTION 27. For the purpose of organizing a new district out of a portion of one or more old districts, the parents or guardians of at least ten children of school age residing within the limits of the proposed new district shall petition the county superintendent in writing, which petition shall describe the boundaries of the proposed district, and the names of all children of school age residing in such proposed district at the date of said petition; and

said list of names shall be held to be the census list of said district until the next regular school census shall be taken, and if any names are found on said list and also on other census lists for the current year, if the county superintendent is satisfied that the children so named are *bona fide* residents of the proposed district, he shall strike such names from the lists of the old districts, when the organization of the new district is completed.

Notice of meeting.

The county superintendent shall direct some one of the petitioners who is a legal voter to notify each elector residing within the proposed district, by personal service as far as convenient, and to post a notice in three public places in the said district, that such petition has been made, and that a meeting will be held, naming the time and place of such meeting, to determine the question of the proposed organization.

New district from unorganized territory.

People living upon unorganized territory may organize themselves into a school district at any time without a petition, if a majority of the legal voters residing within the proposed district shall so decide at a meeting of which a reasonable notice has been given to all resident electors, and which meeting shall be conducted as is now provided by law for the organization of new districts; *Provided*, that in addition to the copy of the proceedings now required by law, the secretary shall also transmit to the county superintendent a certified list of all children of school age who are residents in good faith in said district at the date of the organization, which list shall be held to be the census list of said district until the next regular census."

SEC. 6. That section twenty-nine (29) of said act (being section 2,475 of General Laws) be amended to read as follows, viz. :

Union of districts.

"SECTION 29. Two or more contiguous districts may be united into one district. For the purpose of effecting such union, each district shall, at a special meeting legally called for the purpose, determine by ballot whether or not a majority of the legal voters assembled are in favor of such union. Those in favor shall vote "Yes," and those opposed,

"No." If a majority of the voters present in each district vote in favor of a union, a union meeting shall be called by giving at least ten days' public notice, at which meeting the organization shall be perfected by the election of officers and other necessary proceedings in the same manner as provided for the organization of districts in section twenty-eight (28) of this act.

A portion of unorganized territory may be annexed to a school district, or a portion of one district may be detached from said district and annexed to a contiguous Change in boundary. district by the county superintendent, upon petition, in either case, of a majority of the legal voters resident within the territory to be so annexed."

SEC. 7. That section forty-two (42) of said act (being section 2,488 of General Laws) be amended to read as follows, viz.:

"SECTION 42. Every school district in the state, which now exercises the prerogatives of a school district, and the Legality of organization. legality of whose formation or organization has not been legally denied, and which has a board of directors, duly qualified according to the usual method, and has exercised the rights and enjoyed the privileges of a legally and regularly established district for one year, shall be and is hereby declared to be a legal school district; and all district officers shall hold office until their successors are Term of office. qualified. Whenever the annual census of any district shows that the school population of the district numbers one thousand (1,000) or more, at the next annual election thereafter the board of directors of said district shall be Change from 2nd to 1st class. increased to six members—four weeks' previous notice thereof being given in some newspaper published in the district—by electing two members for three years, one member for two years and one member for one year, and the persons so elected, together with the directors whose official terms have not expired, shall constitute the new board, which board shall enter upon the duties prescribed by law for boards of directors of districts of the first-class."

SEC. 8. That section fifty-three (53) of said act (being

section 2,499 of General Laws), be amended to read as follows, viz. :

Bond of Secretary.

"SECTION 53. Before entering upon the duties of his office, the secretary shall execute a bond with two sureties, for the penal sum of five hundred (\$500) dollars in districts of the first and second classes, and the penal sum of one hundred (100) dollars in districts of the third class, conditioned upon the faithful discharge of his official duties, and the delivery of all district property pertaining to his office over to his successor within ten days after a demand is made for the same by a qualified successor; said bond to be approved by, and filed with the county superintendent:

Duties of Secretary.

The secretary shall record all proceedings of the board and of district meetings in separate books kept for that purpose; shall preserve copies of all reports made to the state or county superintendent; shall file all papers transmitted to him by other school officers pertaining to the business of the district; shall countersign all drafts, warrants or orders drawn by the president; shall keep a register or stub of all orders drawn on the county or district treasurer, showing the number of the order, date, amount, in whose favor and for what purpose drawn, and, from time to time, shall furnish the district treasurer with a transcript of the same. Immediately after the election of one or more directors according to law, he shall transmit to the county superintendent a statement, giving the name and postoffice address of the president, secretary and treasurer respectively, of the board of directors.

Report of election.

Census

Between the twentieth (20th) day of June and the tenth (10th) day of July in each year, the secretary, or some person authorized by him, shall take a census of all persons between the ages of six and twenty-one years, who were *bona fide* residents of the district on the twentieth (20th) day of June aforesaid.

List.

The names so listed shall be arranged alphabetically and be so classified as to distinguish between male and female, and also between those under sixteen years of age and those sixteen and over. The census list shall be sworn to as correct by the person taking the same, and, if such

person be other than the secretary, shall be certified by the secretary, and shall be forwarded to the county superintendent before the close of the current school year. In districts of first and second classes a copy shall be delivered to the principal teacher or superintendent of the district, and in all cases a copy shall be retained in the office of the secretary."

SEC. 9. That section fifty-four (54) of said act (being section 2,500 of General Laws) be annulled, and in lieu thereof there be enacted the following, viz.:

"SECTION 54. The census lists of the several districts shall be carefully examined and compared by the county superintendent, and if the name of the same person be found upon more than one list, he shall strike said name from all lists except that of the district in which such person was residing in good faith on the twentieth day of June aforesaid. The residence of an unmarried person of school age shall, in all cases, be held to be identical with the *bona fide* residence of the parent or guardian of such person. If the county superintendent find upon any census list the names of any persons whom he believes were not residents in good faith of such district, as aforesaid, he shall notify the secretary certifying the list, and, if said secretary shall not establish the correctness of the list within fifteen (15) days after such notification, such names shall be stricken from the list.

Lists to be examined and compared by county superintendent.

At the time of taking the annual census, the secretary shall use reasonable diligence to ascertain the number of persons residing in the district over sixteen years of age who can neither read nor write, giving the number of males and females, and also the number under twenty-one (21) years and the number twenty-one or over. He shall also ascertain the number of blind and deaf mute persons resident in the district between the ages of four (4) and twenty-two (22) years. Said statistical items shall be embodied in his annual report to the county superintendent."

Additional statistics.

SEC. 10. That section fifty-seven (57) of said act (being section 2,503 of General Laws), be amended to read as follows, viz.:

Duty of
treasurer.

"SECTION 57. That it shall be the duty of the treasurer to take charge of all moneys received by him on account of the district from the county treasurer and from all other sources, and to pay out the same only upon the order of the president, countersigned by the secretary; he shall keep an account of all such receipts and expenditures, in a book provided for such purpose, and shall render a statement of the finances of the district, as shown by the records of his office, at the close of each school year, and at any other time when required by the board. For a failure to perform any of the duties of his office, when directed by the board, or for refusing or neglecting to deliver to his legally qualified successor all money, books or other district property in his possession or care, within ten days after the same shall have been demanded by such successor, he shall be liable on his bond, and shall make good all loss resulting to the district from such failure or neglect."

Penalty.

SEC. 11. That section eighty-seven (87) of said act (being section 2,533 of the General Laws of 1877) shall be amended to read as follows, to-wit:

Appeals.

"SECTION 87. An appeal may be taken from the decision of the county superintendent to the state board of education, in the same manner as provided in this act for taking appeals from the district board to the county superintendent, as nearly as applicable, except that the said board shall give thirty days' notice of the appeal to the county superintendent, and the like notice shall be given the adverse party. The decision of said board, or a majority of them, shall be rendered by the president of the board, and such decision when made shall be final; *Provided*, That an appeal may be taken by any applicant for a certificate at a regular quarterly examination, who shall feel aggrieved at the decision of the county superintendent, and if the decision of the county superintendent be reversed, the state board shall issue a certificate to the appellant, which certificate shall be good for one year, and be of the same force and effect as the certificate of the county superintendent from whom such appeal was taken."

SEC. 12. Whereas, in the opinion of this General

Assembly an emergency exists, therefore this act shall take Emergency. effect from and after its approval.

Approved February 4, 1879.

AN ACT

To enable School Districts to Refund their Bonds.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. It shall be lawful for the board of directors, or the board of education of any school district which has a bonded indebtedness to refund the same, with the consent of the bond owners, in bonds bearing a less rate of interest than the bonds so refunded, and running a longer time. The new bonds so issued to take up and replace the district bonds which are to be refunded, shall bear interest at such rate as the said board shall determine, not to exceed Bonds refunded with consent of owners. eight per cent. per annum, and shall be redeemable at the pleasure of the district board in not to exceed twenty years, Interest not to exceed eight per cent. and payable in not to exceed thirty years from the date thereof, and the date after which said new bonds shall be redeemable shall be plainly written or printed upon the face thereof. Time not to exceed twenty or thirty years.

SEC. 2. All the provisions of the laws of the State of Colorado, now existing, relating to the duties of district and county officers in the issue and payment of district Method of procedure to be the same as under the law of 1877. bonds, and relating to the assessment and collection of taxes for the payment of the interest and principal of school district bonds, shall be held to apply equally and in like manner to all matters pertaining to the issue and payment of bonds issued under the provisions of this act, except that the time when taxes shall be levied and collected for the payment of the principal of said bonds shall be as herein after provided.

SEC. 3. At the time provided by law for the levying

Levy for the
redemption of
bonds.

of county taxes in the year next preceding the date at which the first installment of said bonds shall mature, and every year thereafter until the whole amount of said bonds shall be redeemed, the board of county commissioners of any county in which bonds shall have been issued under the provisions of this act, shall levy a tax sufficient to pay not less than ten per centum, nor more than twenty per centum of the principal of said bonds, and the county treasurer shall collect the same as other taxes are collected, and shall pay the amount so collected to the district treasurer as is now provided by law.

Vote of the
people.

SEC. 4. *Provided, however,* that no bonds shall be issued under the provisions of this act until the question of refunding shall first have been submitted to and approved by the qualified voters of the district as is now or may be provided by law, except that the electors shall vote "for refunding" or "against refunding," instead of "for the bonds" or "against the bonds."

Emergency.

SEC. 5. Inasmuch as the present bonded indebtedness of some school districts affected by this act is now due and payable, therefore an emergency exists, and this act shall take effect and be in force from and after its approval.

Approved January 23, 1879.

AN ACT

Providing what shall constitute a Private Seal.

Be it enacted by the General Assembly of the State of Colorado :

SECTION 1. Any instrument of writing to which the maker shall affix a scroll, by way of seal, shall be of the same effect and obligation to all intents, as if the same were sealed.

Approved January 25, 1879.

AN ACT

Relating to the powers and duties of the State Board of Land Commissioners, and the management of the State Lands, and defining the duties of the Secretary of the Board.

Be it enacted by the General Assembly of the State of Colorado :

SECTION 1. That the State Board of Land Commis- ^{Salary of Secretary.}
sioners be and they are hereby authorized to appoint a secretary, who is not a member of said board, whose salary shall be twelve hundred (1,200) dollars per annum. The said secretary shall perform such duties in connection with ^{Duties.} the land affairs of the state, as the board may direct. He shall be provided with suitable furniture by the secretary of state, and shall keep his office in the state library room, and ^{Office.} under the direction of the state librarian, shall have immediate charge of the state library. ^{To have charge of library.}

SEC. 2. That in addition to his duties as aforesaid, he shall act as immigration agent, under the direction of the ^{To act as immigration agent, etc.} said state board, and shall collect and collate all such statistics relative to the different interests of the state, for publication and free distribution, as the said board may direct or may have means to publish.

SEC. 3. The State Board of Land Commissioners be and they are hereby authorized to employ such other clerical assistance as may be necessary; ^{Additional clerical assistance.} *Provided, however,* That such clerical assistance shall not cost the state more than five hundred (500) dollars annually.

SEC. 4. That all lands granted by the Congress of the United States for the support of common schools, known ^{Withdrawal of school lands from market.} as sections sixteen and thirty-six, together with all lands that may be selected in lieu of said sections, be hereby withdrawn from market and the sale thereof prohibited; ^{Provisio.} *Provided,* that such lands may be sold at the discretion of the state board, as is now provided by law.

No bid shall be received at any public sale of state or

Land must bring
appraised value.

Sale of lands
having improve-
ments.

Leasing.

Term of lease
and annual
rental.

Lease of lands
bearing coal,
stone or min-
eral.

Disposition of
money arising
from leasing.

County supt. of
schools to order
lands not leased,
vacated; pro-
viso.

school lands for a less price than that fixed by the board of appraisers; and if any such lands shall be sold on which improvements have been made by a lessee, or prior to the location of the same by the state board of land commissioners, the purchaser, if other than the owner of said improvements, shall pay the appraised value of said improvements to the state treasurer, or county treasurer, as the case may be, on the day of such sale, and the said treasurer shall pay the same to the owner of said improvements.

SEC. 5. The state board shall have power to lease any portion of the state lands upon such terms as are now provided by law for the leasing of school lands, and for that purpose the state board shall appraise said state and school lands.

SEC. 6. No lease of any state or school lands shall be for a longer term than five years without a re-appraisement. The lessee shall pay the annual rental to the state treasurer, who shall receipt for the same on the lease, and shall also give a duplicate receipt to be filed with the auditor of state; *Provided*, that in case building or lime stone, coal, or other mineral be found upon state or school lands, such lands may be leased in suitable tracts for a longer term than five years, conditioned upon the payment to the state of such royalty on the product, or yield of such quarry or mine, as may be fixed by the state board.

SEC. 7. All money arising from the leasing of state or school lands, which is now, or may be hereafter received into the state treasury, shall be treated in all respects in the same manner as is provided by law for the disposition of the interest on the proceeds arising from the sale of the same class of lands.

SEC. 8. It shall be the duty of the county superintendent of schools in each county, to notify, by written or printed notice, all persons occupying the lands of the state without lease, to vacate the same within sixty days next after the receipt thereof; and in case such person or persons shall, for any reason, fail to vacate such premises

within such time, such person or persons shall be guilty of unlawful detainer of such premises; *Provided*, that the actual occupant of any state lands, having improvements thereon, shall have the prior right of leasing the same; *Provided further*, that he must execute a lease therefor before the expiration of the sixty days hereinbefore required.

SEC. 9. Any person thus guilty of an unlawful de- Unlawful
detrainer.
tainer of the lands of the state shall be proceeded against for possession as other cases are prosecuted under the statute in such cases made and provided, in the name of the people of the State of Colorado; and if such occupant shall be found guilty of an unlawful detainer, he shall be adjudged to pay the cost [costs] of the proceedings, and the reasonable attorney fee of counsel for the state in that behalf.

SEC. 10. It is hereby made the duty of county attor- County attor-
neys to prose-
cute.
neys within the counties where such unlawful detainer may be committed, on application of the county superintendent of schools so to do, to prosecute such person or persons thus guilty of an unlawful detainer of the lands of the state.

And the bills of all county superintendents for services Fees of county
supts.; how
paid.
connected with or in the interest of the state lands shall be rendered to the state board, and, if approved by said board, shall be paid by the state in the same manner as other expenses of locating [location] and sale of state lands.

SEC. 11. The provisions of this act shall be construed Construction.
to include all lands heretofore, or which may be hereafter donated by the Congress of the United States to this state for any purpose whatever.

SEC. 12. Whereas, in the opinion of this General Emergency.
Assembly an emergency exists, such as is contemplated by section nineteen (19) of article five (5) of the constitution of the state, therefore this act shall take effect and be in force from and after its approval.

SEC. 13. The county commissioners of any county in the state may, when in their opinion it shall be necessary

Petition for appraisal and sale of lands occupied and improved prior to location by state.

Appraisal of lands and improvements.

Certificate of appraisement.

Order of sale.

Proviso.

for the good of its citizens, petition the state board of land commissioners that certain tracts or parcels of land, occupied and improved by citizens of the United States prior to the location of state lands donated by the general government (specifying such lots and tracts of land,) be appraised and sold; and thereupon the board of land commissioners shall appoint three disinterested householders of such county, who shall appraise said lots or parcels of land, and also appraise the value of such improvements as may be on each parcel of land. A sworn certificate of all such appraisement [appraisements] shall be forwarded by the appraisers to the state board of land commissioners, who shall, if they shall deem the same advisable, direct the sale of such lands in the same manner as now provided by law; *Provided*, this act shall not apply to the sale of school lands, and not more than one hundred and sixty acres shall be sold to any one person.

Approved February 10, 1879.

AN ACT

To accept the provisions of an Act Donating Public Lands to the several States and Territories which may provide Colleges for the benefit of Agriculture and the Mechanic Arts, enacted by the Senate and House of Representatives of the United States of America in Congress assembled: approved July 2, 1862.

WHEREAS, the State of Colorado has constructed and provided for the support and maintenance of an agricultural college within its limits, therefore

Be it enacted by the General Assembly of the State of Colorado:

Acceptance.

SECTION 1. That in conformity with the requirements of an act of the Congress of the United States, entitled "an act donating public lands to the several states and ter-

ritories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, A. D. 1862; assent is hereby given to the provisions of said act and amendments thereto, and the grants mentioned in said act are accepted with all provisions connected therewith.

SEC. 2. Inasmuch as no provision has heretofore been ^{Emergency.} made for the acceptance of and assent to the provisions of said act, and inasmuch as it is necessary to select the lands provided for in said act at as early a day as practicable, this General Assembly is of the opinion that an emergency exists requiring this act to take effect without delay; therefore this act shall take effect immediately upon its passage.

SEC. 3. That the governor of the state shall transmit ^{Governor to transmit certified copies to president, etc.} a certified copy of this act, under the seal of the state, to the president of the United States and the secretary of the department of the interior, at Washington City, District of Columbia.

Approved January 27, 1879.

AN ACT

To amend an Act to provide for the Branding, Herding and Care of Stock, and to repeal certain acts in relation thereto.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The districts herein constituted shall be called round-up districts, and their several limits shall be as follows:

SEC. 2. District number one: Commencing at a point ^{Boundaries of round-up District No. 1.} where the state line crosses the Arkansas River, thence up said stream to the mouth of the Purgatoire, thence up the latter stream to Smith's Canon, thence up said canon to its head, thence down Carrijo Creek to the state line, thence

east to the south-east corner of the state, thence north to the place of beginning.

District No. 2.

SEC. 3. District number two: Commencing at the mouth of the Purgatoire, thence up the Arkansas to the mouth of the St. Charles, thence up the latter stream to the east line of Custer County, thence south to the north line Huerfano County, thence westerly on said line to the west boundary of the county, thence on said boundary to the north boundary of Las Animas County, thence on the latter boundary to the Purgatoire, thence down said stream to the place of beginning.

District No. 3.

SEC. 4. District number three: Commencing at the mouth of St. Charles, thence up the Arkansas to Grape Creek, thence along the eastern slope of the Wet Mountains to the St. Charles, thence down said stream to the place of beginning.

District No. 4.

SEC. 5. District number four: Commencing at the south-east corner of Custer County, thence along the southern and western boundary of said county to the boundary of Fremont County, thence along the west boundary of the latter county to the Arkansas River, thence down the Arkansas to Grape Creek, thence along the line of district number three to the place of beginning.

District No. 5.

SEC. 6. District number five shall be limited by that part of Las Animas County lying west of the point where Carrijo Creek crosses the southern boundary of the state.

District No. 6.

SEC. 7. District number six: Commencing where the east line of Pueblo County crosses the Arkansas, thence up said river to Canon City, thence northerly along the base of the mountains to the north line of El Paso County, thence east on said line to the north east corner of the county, thence south to place of beginning.

District No. 7.

SEC. 8. District number seven: Commencing at the north-east corner of El Paso County, thence south to the Arkansas, thence down said river to the east line of the state, thence north to the dividing ridge between the Republican and the Big Sandy, thence westerly along said

ridge to Cedar Point, thence to River Bend, thence up the Sandy to place of beginning.

SEC. 9. District number eight: Commencing at River Bend, thence westerly on the line of the Kansas Pacific Railway to the Platte, thence up said stream to the mountains, thence southerly along the base of the mountains to the north line of El Paso county, thence east along said boundary to the head of the Sandy, thence down the Sandy to the place of beginning. District No. 8.

SEC. 10. District number nine: Commencing on the Platte at the mouth of Sand Creek, thence down the former stream to the mouth of Bijou, thence up the Bijou to Deer Trail, thence westerly along the line of the Kansas Pacific Railway to Sand Creek, thence down said creek to place of beginning. District No. 9.

SEC. 11. District number ten: Commencing at the mouth of Bijou, thence up said creek to Deer Trail, thence on direct line to Agate Station, thence to Cedar Point, thence along the dividing ridge between the Republican and Big Sandy to the east line of the state, thence north on said line to the Platte, thence up said stream to the place of beginning. District No. 10.

SEC. 12. District number eleven: Commencing at the mouth of Lodge Pole Creek on the Platte, thence up the latter to the mouth of the Cache-la-Poudre, thence up the Cache-la-Poudre to the north line of the state, thence east on said line to the place of beginning. District No. 11.

SEC. 13. District number twelve: Commencing at the mouth of the Cache-la-Poudre, thence up the Platte to Hughes, thence along the line of the Boulder Valley Railway to Boulder City, thence along the base of the mountains to the Cache-la-Poudre, thence down said stream to the place of beginning. District No. 12.

SEC. 14. District number thirteen: Commencing at Canon City, thence along the easterly base of the mountains to the first correction line south, thence west on said line to the west line of Park county, thence on said line to the line of Fremont county, thence on the west line of said

county to a point where it intersects with the Arkansas river, thence down said river to the place of beginning.

District No. 14. SEC. 15. District number fourteen shall be limited by the limits of Lake county.

District No. 15. SEC. 16. District number fifteen shall comprise that part of the San Luis Valley lying north of the Rio Grande and the Denver and Rio Grande Railway.

District No. 16. SEC. 17. District number sixteen shall be bounded as follows: Commencing at Del Norte, thence down the Rio Grande to Alamosa, thence along the Denver and Rio Grande Railway to the east line of Costilla county, thence south on said line to the state line, thence west on said state line to the west line of Conejos county, thence north on said line to the north line of the county, thence to Del Norte on a direct line.

Round-up commissioners; how appointed, duties of.

SEC. 18. The governor shall appoint three commissioners for each district on or before the first day of March of each year, to be known as round-up commissioners, and who shall be actual owners of cattle running upon the range within the district for which they are appointed. Said commissioners, or a majority of them, shall have power, and it shall be their duty, on or before the first of April of each year, to arrange the programme for the annual spring round-ups, to fix the time of their commencement, to hire the foremen, and to remove the same for incompetency, neglect of duty, or other cause which by them shall be deemed sufficient.

Foremen; compensation of, how paid.

SEC. 19. The foremen of round-ups shall each receive three dollars per day for each day of actual service, and the auditor shall draw his warrant therefor upon the presentation of a certificate signed by two or more of the proper round-up commissioners, and setting forth the number of days of service, the number of the district in which the labor was performed, and that such labor was performed at the spring round-up; and the treasurer shall pay the same out of the round-up and inspection fund herein provided for. *Provided*, That the aggregate wages of foremen in

any one district shall in no case exceed one hundred and fifty dollars in any one year.

SEC. 20. The governor shall appoint, on or before the first day of May of each year, three commissioners, from different sections of the state, to be known as the board of inspection commissioners. No person who is not the actual owner of cattle upon the public range shall be eligible to serve on said board. Said commissioners shall each take and subscribe to an oath conditioned upon the faithful performance of his duties as commissioner, which oath shall be filed in the office of the secretary of state. A majority of the board shall constitute a quorum to do business.

Governor to appoint inspection commissioners
Oath.
Quorum

SEC. 21. It shall be the duty of said board to employ competent cattle inspectors, not exceeding six in number at any one time, and to distribute them at such points, either within or without the boundaries of the state, as will in their judgment most effectually prevent the illegal slaughtering or shipping of cattle. They shall also furnish each inspector with a list of all brands sent to them for that purpose and owned by residents of this state. All inspectors while thus employed shall be subject to such reasonable rules and requirements as the board may prescribe, and shall be subject to dismissal by the board at any time. Said inspectors shall each receive eighty-five dollars per month during their time of actual service, and the auditor shall draw his warrant therefor upon bills approved by the board of inspection commissioners, and the treasurer shall pay the same out of the round-up and inspection fund.

Duties of inspectors.
Salary.

SEC. 22. There shall be levied and assessed upon the assessed value of all neat cattle in the state, in the year 1879, two mills on each and every dollar thereof, and in each year thereafter one mill on each and every dollar thereof, to be known as the round-up and inspection tax; said tax to be assessed and collected in the same manner and at the same time as is now, or may be prescribed by law for the assessment and collection of state revenue.

Tax; amount, how levied, etc.

SEC. 23. It shall be the duty of the county treasurers in the several counties to preserve the fund thus provided

Duty of county treasurers.

for as a separate fund, and to transmit the same monthly to the state treasurer, who shall keep the same in a fund to be known as the round-up and inspection fund.

Liability of
owner or keeper
of diseased sheep

SEC. 24. Any person or persons owning or keeping any flock or herd of sheep, any portion of which flock or herd may be diseased with the scab or any other contagious disease to which sheep are subject, shall be liable in the full amount of damage that may be occasioned to other sheep owner or holder by reason of such diseased flock or herd of sheep, or any part thereof, being moved or allowed to stray from its own range while in such diseased condition:

Repeal.

SEC. 25. Section 2592 of the General Laws, and any other acts or parts of acts inconsistent herewith are hereby repealed.

Emergency.

SEC. 26. Inasmuch as the time is near at hand to prepare for the spring round-ups, therefore this act shall take effect from and after its passage.

Approved February 6, 1879.

AN ACT

To protect the Grazing Lands of Colorado from the Stock of Non-Residents.

Be it enacted by the General Assembly of the State of Colorado:

Terms upon
which non-resi-
dents may graze
stock in this
state.

SECTION 1. Any person or persons being non-residents of this state may keep and herd, for grazing purposes, cattle, horses, mares, geldings, mules, asses or sheep in any county in this state, for the period of one year thereafter, by first paying to the treasurer of the county wherein the said stock may be kept and herded, the sum of fifty cents for each and every animal so kept and herded in said county; *Provided*, That the sum of twenty cents only shall be collected on each and every sheep so kept and herded as aforesaid; *and provided also*, that the said fifty and

twenty cents, respectively, shall be in lieu of all taxes upon said animals, whether for county, school or state purposes, during the period preceding the first day of May in each and every year.

Amount paid
treasurer shall
be in lieu of all
taxes.

SEC. 2. It shall be the duty of every non-resident owner or owners of animals, mentioned in the first section hereof, or his or their agent, desiring to keep and herd stock within any county in this state, as hereinbefore provided, to set out in a certificate under the hand of said owners, his, her or their agents, the number of animals, whether neat cattle, horses, mares, geldings, mules, asses or sheep, together with the brands, if any, upon the same, and file the said certificate with the recorder of the county in which said animals may thereafter be kept and herded, which certificate may be in the following form, to-wit:

Certificate to be
filed with county
recorder, giving
number and kind
of animals and
brands.

STATE OF COLORADO, }
_____ County. }

The undersigned, owner (or agent of the owner, as the case may be), of the following described animals, proposes to keep and herd the same for grazing purposes, within the county aforesaid, to-wit: (describing the number of animals of each kind respectively, with brands, if any), from the _____ day of _____, A. D. 18—, until the _____ day of _____, A. D. 18—.

Form of certi-
cate.

(Signed.) _____.

Which certificate may be acknowledged before the recorder of the county, by the person executing the same; which acknowledgment indorsed upon said certificate, may be in the following form:

The within certificate was acknowledged before me, this _____ day of _____, A. D. 18—.

Form of acknow-
ledgment.

_____,
Recorder of _____ County.

SEC. 3. It shall be the duty of the recorder, upon said certificate being acknowledged and filed, to keep an index of the same in his office for the inspection of all persons, as is now provided by law in other cases, and within ten

Recorder to keep
index and certify
copy of certifi-
cates to county
treasurer.

Treasurer to enter abstract of certs., on tax list and collect amount due.

How collected.

How money to be credited.

Recorder to charge amount due on tax warrant.

Fee of recorder and treasurer.

Forfeit for grazing stock without filing certificate and paying amount due.

days after the filing of the same, to certify a copy of said certificate under his hand to the treasurer of the county ; it shall be the duty of the county treasurer immediately to enter an abstract of said certificate upon the tax list of the current year in his hands, and to collect the sum of money due and payable from the owner or owners of said animals, his, her or their agents, within twenty days thereafter, if the same shall not previously be paid, by distress and sale of said stock or so much thereof as may be necessary to pay the said sum of money with all costs accruing therefrom, in the same manner as is now provided by law for the annual collection of taxes assessed upon personal property, without any further warrant to him for that purpose ; and when said money shall be collected by the said treasurer, he shall credit the same to the state, county, school and road funds respectively, in the same proportion as other taxes.

SEC. 4. The recorder of the county shall, as county clerk, also charge the amount due on each certificate so filed to the amount of the annual warrant of county taxes delivered to the county treasurer ; he shall receive the sum of one dollar from the person filing said certificate, which sum shall be in full of all fees for his services in each case. The treasurer of the county shall receive the same fees as are now allowed by law for the usual collection of taxes for similar services.

SEC. 5. Any non-resident owner or owners of animals specified in the first section of this act, his, her or their agents, who shall keep and herd for grazing purposes his, her or their animals, in any county of this state, without having first filed his, her or their certificate acknowledging the same, and paying the amount of money per head as is hereinbefore provided, shall forfeit and pay the sum of two dollars for each and every head of stock so kept and herded, except sheep, upon which latter named animals shall be forfeited and paid the sum of fifty cents for each and every head thereof, which said sum of money per head shall be collected by an action of debt in the name of the county in which the said animals were so kept and herded ;

three-fourths of which sum shall be applied to the use of the county, and the remaining one-fourth for the use of the state.

SEC. 6. It is hereby made the duty of the county commissioners of any county in which any animals belonging to any non-resident shall be kept and herded without first having complied with the provisions of this act, upon information received of the same from any person or persons, either verbally or in writing, to institute proceedings in the name of the county against such non-resident owner or owners, according to the provisions of the last preceding section of this act, in any court of competent jurisdiction; and if the owner or owners of said animals are not known to said commissioners, then, and in that case, it shall be lawful to make the agent of such non-resident owner or owners of said animals, or any person or persons having the care or custody of said animals, the defendant or defendants in said suit, and service of the summons in debt upon such agent or person having the care or custody of said animals, shall be considered and held to be personal service upon the owner or owners of said animals.

SEC. 7. In any case when the non-resident owner or owners, or the agent or person having the care or custody of any animals of such non-resident owner or owners shall, pending proceedings instituted as provided in the last preceding section, drive or move said animals out of the county with intent to move the same out of the state, with intent also to evade the payment of the forfeiture provided in section five of this act, upon oath in writing being made by one or more commissioners of the county, or other person in behalf of said county, of such removal, and filed in any action brought to recover the penalty or tax herein provided for, writs of attachment may issue and the proceedings therein shall be as in other cases.

SEC. 8. It shall not be necessary for the county, nor any person or persons in behalf of the county, in such proceedings, to enter into bond and security as is now provided by general law concerning attachments; but this provision shall not in any case preclude the party injured from prose-

How forfeiture collected and applied.

Duty of commissioners to institute proceedings.

Who may be made defendants

In case of removal of stock pending proceedings, attachment may issue.

Bond and security not necessary in case of attachment.

cuting his action against the county for all costs of said suit, and such damages as shall be awarded against the said county for the wrongful suing out of the said attachment, in cases where writs of attachment may be unlawfully issued.

Removal of
stock from one
county to another

SEC. 9. Whenever any non-resident owner or owners of animals, his, her or their agents shall desire to drive or remove said stock out of the county in which the same were kept and herded, according to the provisions of this act, into any other county of this state for grazing purposes no additional sum shall be charged said owner or owners, his, her or their agent; *Provided*, said owner or owners, his, her or their agent shall file a certified copy of the certificate filed with the recorder of the county wherein said stock was kept and herded, with the recorder of the county into which said animals may be so driven or removed.

Approved February 1, 1879.

AN ACT

To amend an act entitled an act to provide for the Appointment of Sheep Inspectors.

Be it enacted by the General Assembly of the State of Colorado:

Duties of sheep
inspector.

[SEC. I.] Strike out section two, and insert in lieu thereof the following words for section two: It shall be the duty of the sheep inspector, whenever he has knowledge or information that any sheep within his jurisdiction have the scab or any other malignant contagious disease, to inspect said flock and report in writing the result of his inspection to the county clerk of his county, to be filed by him for reference for the county commissioners, or any party concerned; and if so diseased, once every two weeks thereafter to reinspect said flock and report in writing the result and treatment, if any, in the same manner, until said disease is reported cured; *Provided*, that in case of the removal of the flock six miles from the range of any other

sheep, as hereinafter provided, he shall only make one inspection every three months.

[SEC. 2.] Strike out section three and insert in lieu thereof the following words for section three: And upon the arrival of any flock of sheep into the state, the owner or agent shall immediately report them to the inspector of the county for inspection, and the inspector shall inspect and report as provided in section two; and, in case of failure, from any cause, of owner or agent, to report for inspection, a fine of one hundred dollars shall be imposed on said owner or agent for each offense, by any court of competent jurisdiction, which fine, when collected, shall be paid into the county treasury for the use of the sheep inspector's fund; and any judgment for such fine shall be a lien upon such flock.

Report to inspector of arrival of stock in state. Inspection in case of failure to report.

[SEC. 3] Strike out section nine, and insert in lieu thereof the following words for section nine: The inspector shall receive for his services four dollars per day whilst necessarily employed in inspecting; and for the first inspection an additional fee of one-half cent for every sheep, when the flock inspected is five hundred or less, and for inspecting larger flocks two dollars and fifty cents for the first five hundred, and one-fourth cent each for the remainder of said flock, to be paid by the owner or his agent, and two cents per line of ten words for any official report or document; *Provided*, if any person shall keep several separate flocks of sheep, and some flock or flocks be not infected with scab, the owner shall be required to pay only the fees for inspection of such infected flock or flocks; [*and*] *provided* [*further*], that when an inspection is made, and the result shall show no disease, the inspector shall give the owner a written statement to that effect, and shall be paid for said inspection as provided in section fifteen. The inspector shall receive ten per cent. of all fines and penalties in cases in which he gives information of the offense, and his interest in the result shall not effect his competency as a witness, and all fines and penalties, except as herein provided, shall be paid to the county treasurer as part of the sheep inspection fund of the county.

Fees of inspector

Disposition of fines and penalties.

Further duties
of inspector.

[SEC. 4.] It shall be the further duty of the inspector, between the 10th day of August and the 10th day of December in each year, to visit each flock of sheep within the county and make a written report of their condition as to scab, or other malignant contagious disease, and when he reports such disease shall be paid for the same as provided in section nine, and when he reports in substance no disease, shall be paid as provided in section fifteen.

Penalty for
false report by
inspectors.

[SEC. 5.] Strike out section twelve, and insert in lieu thereof the following words for section twelve: Whenever a sheep inspector shall wilfully and falsely report any sheep subject to disease, he shall be subjected to a fine of ten times the amount of the fees charged by him for the inspection, and if he shall wilfully and falsely report any sheep inspected by him free from disease, that are thus infected, he shall be subjected to a penalty not exceeding three hundred dollars for each offense.

For what causes
inspectors may
be removed.

SEC. 13. [SEC. 6.] If any sheep inspector shall be found guilty of either of the offenses set forth in section twelve, or if on complaint in writing by any three wool growers of the county, the county commissioners, after allowing the inspector a fair hearing, shall be of opinion that he is incompetent to discharge intelligently and efficiently the duties of his office, or that having sufficient knowledge or information he has for any cause wilfully or negligently failed to make the required inspection, or that he has needlessly made inspections for the purpose of securing the fees, or that his reports have been influenced by favor or prejudice, or from any cause he has failed in the proper discharge of the duties of his office, it shall be the duty of said commissioners to declare said inspector's office vacant and to make a new appointment.

Owner to dip
upon own prem-
ises; proviso.

SEC. 14. [SEC. 7.] That every owner of sheep having scab or other malignant contagious disease shall dip or otherwise treat the same upon his own premises; *Provided*, that when he has more than one ranche or set of ranches, and the diseased sheep are not upon the ranche where his dipping works or other facilities for treating the disease are

situated, he shall have the right to drive over the intermediate ranges, but in so doing shall consult the owners or occupants of said range as to where he shall cross the same, and in no case shall he enter another's corral, or water at his troughs or accustomed watering place with his diseased sheep without the written or otherwise expressed consent of the owner; and for every violation of the provisions herein he shall be subjected to a penalty of not exceeding one hundred dollars.

SEC. 15. [SEC. 8.] That in each county there shall be levied and assessed annually a tax not exceeding in any one year one-half of a mill upon the dollar of the assessed valuation of the sheep within the county, which shall be collected as other general taxes, and which, with the penalties herein provided, shall constitute the sheep inspector's fund of the county, and which fund shall only be expended in the payment of the legal fees of the sheep inspector, and said fees shall only be paid by the county treasurer after they shall have been approved and allowed by the county commissioners, in the same manner and form as claims against the county are approved and allowed by them; and from said fund the sheep inspector shall be paid not to exceed three dollars per day for every day actually employed in making his annual round between the tenth of August and the tenth of December of each year, and three dollars per day for each day actually employed in making the inspections required by section [sections] two and three, and when he reports in substance no disease; *Provided*, this act shall not affect or repeal section eleven of the act of which this act is amendatory.

Sheep inspector's fund; what shall constitute; how expended, etc.

Approved February 20, 1879.

AN ACT

To amend Sections Two Thousand Five Hundred and Seventy-three [Seventy-two] and Two Thousand Five Hundred and Eighty-three of the General Laws.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section two thousand five hundred and seventy-three [seventy-two] of the general laws of this state be hereby amended by adding thereto the following:

Payment for
stock killed
without mark,
to whom made.

Any animal injured or killed not having any mark or brands upon it, or having marks or brands unknown to such company, by the trains of any railroad company, said company shall, within thirty days next after such injury or killing, pay the value thereof according to the schedule of prices as now fixed by law, unto the treasurer of the district association of cattle growers within the district where such animal is thus injured or killed; *Provided*, the ownership thereof shall not be established before the expiration of said thirty days; *and, provided further*, that if there shall be no such association, then said money shall be paid into the treasury of the proper county to the credit of the school fund of the county.

Duty of district
treasurer.

SEC. 2. It shall be the duty of the treasurer of such district association to receive such money, and to receipt to such company thereof [therefor], and such receipt shall be a bar to any action that may be brought against such company on account of such injury or killing; and it shall be the further duty of such treasurer to retain such money for six months, within which time he shall pay the same to the owner of such animal, in case the owner thereof shall be discovered; but in case the owner thereof shall not be discovered, then and in that case, at the expiration of said six months such money shall be deposited by such treasurer to the credit of the general fund of such district association.

SEC. 3. That section twenty-five hundred and eighty-three of the General Laws of this state be, and the same is

hereby repealed, and in lieu thereof the following is enacted, namely:

All neat stock found running at large in this state without a mother, and upon which there is neither ear mark nor brand, shall be deemed a mavorick, and may be taken in charge by the captain or foreman of a legal round-up, and sold at such time and places [place] and in such manner as shall be determined by the executive committee of the district association of cattle-growers of the district wherein such mavorick shall be taken up. The proceeds arising from such sales shall be paid unto the treasurer of such district association, and if any stock so sold shall, within the period of six months immediately following such sale, be claimed, identified and proven by the rightful owner, it shall be the duty of such treasurer to forthwith pay the money received for such mavorick to such owner; but in the event that such mavorick shall not be thus identified and its ownership proven during said six months, then it shall be the duty of such treasurer to carry the amount received therefor to the credit of the general fund of such association. The captain or foreman of a legal round-up who shall sell any stock under the provisions of this section shall only sell the same for cash, and shall, within ten days after such sale, pay the proceeds thereof unto such treasurer. The person purchasing a mavorick at such sale shall receive from such captain or foreman a bill of sale therefor, in his capacity of captain or foreman, describing the animal thus sold and showing the price paid therefor, which bill of sale shall convey unto such purchaser the title to such mavorick.

What stock deemed mavoricks; round up and sale.

Proceeds of sale.

How owner may receive value.

Sale for cash.

Bill of sale.

Approved February 12, 1879.

AN ACT

To provide for the Herding of Rams.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. It shall be the duty of any owner, or agent of any owners of thoroughbred ram or rams of any description to herd them, or keep them inclosed. Any owner or agent who refuses to comply with the provisions of this act shall be fined not less than twenty-five dollars nor more than one hundred dollars.

SEC. 2. Any fines arising from a violation of section one of this act shall be paid into the school fund of the county in which such violation occurs.

Approved February 6, 1879.

AN ACT

Entitled Stallions, Jacks, Bulls, Rams and Boars.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That the keepers of stallions, jacks, bulls, rams and boars, in this state, [shall] have liens upon the get of such for the space of one year from the birth of same, for the payment of service of such stallion, jack, bull, ram or boar.

SEC. 2. This act shall not apply to a *bona fide* purchaser without notice of such lien.

Approved January 31, 1879.

AN ACT

To protect Cattle from the Disease called Texas Fever.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. No person or persons shall be allowed to drive any cattle into this state from the State of Texas or Indian Territory, or that have been brought from the State of Texas or Indian Territory within six months next preceding, at any time after the first day of May and before the first day of September of any year; *Provided*, that the provisions of this act shall not apply to persons driving or transporting such cattle on the usual routes of travel through the state expeditiously and without unnecessary delay.

Limitation of
time for driving
Texas cattle.

SEC. 2. Any person violating the provisions of the first section of this act shall be guilty of a misdemeanor, and, on conviction, shall be fined in any sum not less than one thousand dollars nor more than three thousand dollars.

Penalty for vio-
lation of section
one.

Approved February 12, 1879.

AN ACT

To provide for the Publication, Purchase and Distribution of the Decisions of the Supreme Court of the State of Colorado.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That the decisions of the supreme court of the State of Colorado shall be published in volumes of the size, as nearly as may be, of volumes of one, two and three of Colorado Reports, and containing not less than six hundred and fifty pages each.

Reports, form
of publication.

SEC. 2. The reporter shall have no pecuniary interest

Published under supervision of judges; by contract; commission on behalf of state.

Terms of contract.

Secretary of state to advertise for proposals, when and how.

How contract awarded.

Further terms of contract.

in the volumes of supreme court reports hereafter to be published, excepting volume four, but they shall be published under the supervision of the judges of the supreme court and the reporter, by contract, to be entered into by the governor, secretary of state and attorney general, who are hereby constituted a commission for the purpose of making such contract on behalf of the state, with the person or persons who shall agree to publish and sell the said reports, for a period of ten years, on the terms most advantageous to the state and the public, and at a rate not to exceed four dollars per volume of six hundred and fifty pages.

SEC. 3. Immediately upon the taking effect of this act, the secretary of state shall advertise for proposals for the publication of said reports, for thirty (30) days, in at least two daily newspapers of general circulation, printed and published in the city of Denver. Said advertisements shall state the day and the hour when proposals will be opened. It shall be the duty of said governor, secretary of state and attorney-general, to consider all proposals for the publication of said reports which may be made to and filed with them on or before the time set for opening the same, and to award the contract to the person or persons who may agree to publish and sell the same on the terms most advantageous to the state and public, at a rate not to exceed four dollars per volume.

SEC. 4. The contract must require the publisher or publishers to print and publish each volume in good law book style and in well bound volumes, on good book paper, in small pica and brevier type, single leaded, equal in quality of paper and binding to volumes one, two and three of Colorado Reports, within sixty days from the time at which the manuscript of each volume is delivered by the reporter; to sell one hundred and fifty copies of each volume to the state at the price fixed in the contract; to keep on hand and for sale at the price stipulated in the contract a sufficient number of copies of each volume to supply all demands for ten years from the publication thereof, and to give bond for the fulfillment of the terms of the contract in

the sum of ten thousand dollars, which bond shall be filed with and approved by the secretary of state.

SEC. 5. On the publication of each volume of said ^{Secretary of state to purchase} reports, the secretary of state shall purchase for the use of the state one hundred and fifty copies of said volume, at the price named in the contract, not exceeding four dollars per volume, and must, as soon as he receives them, distribute them as follows: To each state and territorial ^{How distributed} library and the library of congress, two copies; to each department of this state, to each of the judges of the United States supreme court, and to each of the United States circuit and district judges for this state, to each of the supreme, district and county judges, one copy; to the reporter of the supreme court, ten copies. The surplus copies, if any there be, he shall deposit in the state library, for the use of lawyers attending the supreme court and members of the legislature when in session.

SEC. 6. The secretary of state must indelibly mark ^{How marked.} each volume distributed to officers in this state (except those given to the reporter), with the name of the county to which, and the official designation of the officer to whom it is sent. Such books remain the property of the state, and ^{Property of state} must be by the officers receiving the same delivered to their successors.

Approved February 18, 1879.

AN ACT

To provide a Salary for the Reporter of the Decisions of the Supreme Court.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That on and after the first day of Febru- ^{Salary.} ary, 1879, or as soon thereafter as the cases to fill Volume IV. of the Colorado Reports shall have been determined, the reporter of the decisions of the supreme court of this state shall receive an annual salary of seven hundred and

fifty dollars, payable quarterly, out of the same fund and in the same manner that the salaries of state officers are paid.

Emergency.

SEC. 2. Inasmuch as there is no law providing a compensation for the reporter of the decisions of the supreme court, it is the opinion of the General Assembly that an emergency exists as contemplated in section nineteen, article five of the constitution; therefore this act shall take effect and be in force from and after its passage and approval by the governor.

Approved February 18, 1879.

AN ACT

To amend an act entitled "An Act in relation to Municipal Corporations."

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That said act be amended by adding thereto the following, as sections one hundred and five, one hundred and six, one hundred and seven, one hundred and eight, one hundred and nine, one hundred and ten, and one hundred and eleven, respectively:

How tax collected in case of re-incorporation.

SEC. 105. Whenever any city or town abandons its old organization and incorporates under this act, it shall be the duty of the county treasurer to collect, in the same manner as other taxes are collected, any and all taxes of such city or town which may at the time of such incorporation have become due or delinquent; and wherever property shall have been before such re-incorporation sold for taxes due any such city or town, and the same shall not have been redeemed nor the deed executed therefor prior to incorporation, it shall be the duty of the county treasurer to act in all respects regarding the redemption of such property, the collection of taxes thereon, and the execution of the deed therefor, as though the same had been sold subsequent to such re-incorporation. The provisions of this

Redemption.

section shall apply to all cities or towns which may have re-incorporated prior to the taking effect of this act.

SEC. 106. Whenever any city or town incorporates Assessment. under this act, or whenever any city or town heretofore incorporated shall reorganize under this act, after the time for making the annual assessment for taxation has passed, the council or board of trustees of such city or town may provide, by ordinance or resolution, for the assessment of taxable property within the corporate limits of said city or town. When such assessment is made and approved by the council or trustees, they may proceed to levy the necessary taxes for the fiscal year, which levy shall be certified by the clerk of such city or town to the county clerk, who shall extend the same upon the tax list of the current year as now required by section forty-six of this act, and the county treasurer shall thereupon proceed in the collection Levy. of such taxes in all respects as now provided by law for the collection of taxes in cities and towns. It shall not be necessary for any such city or town to pass the annual appropriation bill required by section twenty-eight of this act; *Provided*, that this section shall apply only to the Collection. assessment and collection of taxes for the first fiscal year after such incorporation or re-organization. Proviso.

SEC. 107. After [at] the first general election in cities Election, etc., of of the second class after incorporation under this act, two aldermen. aldermen shall be elected from each ward, and the council shall determine by lot their terms of service, so that one member from each ward may serve for two years, and one for one year. Thereafter one alderman in each ward shall be elected annually, as provided in section seventy-nine of this act.

SEC. 108. The city council of cities, and the board of Additional trustees in towns, shall have the following additional powers granted. powers:

First. To authorize the impounding and summary sale of horses, cattle, sheep, goats, swine and geese found running at large within such city or town contrary to any ordinance thereof.

Second. To levy and collect annually from each able-

bodied male citizen of such city or town between the ages of twenty-one and sixty years a poll-tax, or require a certain amount of labor in lieu thereof; *Provided*, such tax shall not exceed the sum of three dollars per capita.

Third. To authorize the acceptance of a bail bond whenever any person shall have been arrested for the violation of any ordinance, and a continuance or postponement of trial shall be granted; and when such bond shall be accepted it shall have the same validity and effect as bail bonds provided for under the criminal statutes of Colorado.

Fourth. To fill any vacancy occurring by the death, removal or resignation of any trustee or alderman, by appointment, the successful candidate receiving a majority vote therefor; *Provided*, that such appointee shall hold his office only until the next annual election, when the vacancy shall be filled by election as in other cases.

Fifth. To levy annually, by ordinance, and collect a frontage tax on all lots fronting on water mains in towns or cities having water-works owned by such towns or cities.

In suits for recovery of fines, etc., what to state in complaint.

SEC. 109. In all suits brought for the recovery of any fines or penalties for violation of any ordinance, it shall be sufficient to state in the complaint or affidavit the number of the section and title of the ordinance violated, together with the date of its passage, without stating said section or ordinance in full or the substance thereof.

City or town incorporated previous to July 3, 1877, how to proceed.

SEC. 110. Every city or town incorporated previous to the third day of July, 1877, which shall choose to retain such organization, shall, in the enforcement of the powers or the exercise of the duties conferred by the special charter or general law under which the same shall be incorporated, proceed in all respects as provided by such special charter or general law.

By-laws and ordinances of cities and towns incorporated previous to July 3, 1877.

SEC. 111. Whenever any city or town, incorporated previous to the third day of July, A. D. 1877, under a special charter or general law, shall re-organize under this act, the by-laws and ordinances adopted and in force in such city or town previous to such re-organization shall remain in full force and effect for all purposes until the same are

changed, amended or repealed by the city council or board of trustees elected under the new organization.

SEC. 2. In the opinion of this General Assembly an ^{Emergency.} emergency exists; therefore this act shall be in force and take effect from and after its passage.

Approved February 12, 1879.

AN ACT

To amend an act entitled An Act in relation to Municipal Corporations: Approved April 4, 1877.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section one hundred and one of the act entitled an act in relation to municipal corporations, approved April 4, 1877, be, and the same is hereby amended to read as follows:

SEC. 101. When any tract of land may have been, or ^{Vacating of town site and disposal of same.} hereafter be filed upon, platted and recorded as a town may site in accordance with the provisions of any act of Congress or law of Colorado, and no town organization under the laws of Colorado shall have been perfected by the inhabitants residing thereon, or the owners thereof, the same may be vacated by consent of all such inhabitants or owners, and be disposed of as the said inhabitants or owners shall agree; *Provided*, that a statement, signed and certified to by a majority of said inhabitants or voters [owners], setting forth the fact of the vacation of such town site, be filed with the clerk of the county in which the same shall be situated.

When any tract of land has been recorded as a town ^{Vacation of part of town site.} site, or has been annexed as an addition to a town site, any part or portion thereof may be vacated upon the written consent of all the owners of that part or portion which it is proposed to vacate; *Provided*, that no expenditures of money have been theretofore made or incurred by said town

for the improvement or benefit of said part or portion, and that the same is bounded in whole or in part by exterior town lines, and that when so vacated a statement, subscribed by such owners, setting forth the facts of such vacation, together with an accurate description map and plat of such part vacated, shall be filed in the office of the clerk and recorder of the county in which such town is situated.

Approved February 18, 1879.

AN ACT

To enable Cities and Towns to Purchase, or Lease and Manage Ditches and Canals to supply water for irrigation and other purposes.

Be it enacted by the General Assembly of the State of Colorado :

May purchase or
lease ditch.

SECTION 1. Any incorporated town or city in this state shall have power to purchase or lease any canal or ditch already constructed, or which may hereafter be constructed, and all the rights, privileges, franchises of any person or persons, or corporations owning the same, or having any interest or right therein, and to hold and operate the same in the same manner as the persons or corporation from whom the same may be purchased or leased might otherwise do; *Provided*, such purchase or lease shall be made for the purpose of supplying, by said ditch or canal, water for the use of the people of said city or town; *and provided further*, that a majority of the qualified electors of such city or town, who shall vote at any regular election which may be held for the election of town officers, shall vote in favor of said purchase.

Obligations of
city or town
purchasing or
leasing ditch.

SEC. 2. Any town or city making such purchase or lease shall thereby assume all obligations and other duties which by law devolve upon the owner or owners of such ditch or canal of whom the same may be purchased or leased by virtue of this act, and shall have power to repair, improve or enlarge the same, or any flume, dam or gate

connected therewith, and for such objects may levy and collect taxes in the same manner as other taxes are levied and collected by law. The management of such ditch or canal shall be under the control of the board of trustees, or council, as the case may be, of such town or city. Management of ditch.

SEC. 3. Whereas, in the opinion of this General Assembly, an emergency exists making it important that certain cities and towns in this state should have the privileges provided by this act conferred upon them at once, therefore this act shall take effect from and after its approval. Emergency.

Approved February 19, 1879.

AN ACT

To amend an act entitled "An Act to reduce the Law Incorporating the City of Denver, and the several acts amendatory thereof," into one act, and to revise and amend the same so as to enable the City Council to establish a system of Sewerage.

Be it enacted by the General Assembly of the State of Colorado :

SECTION 1. That the city council of the city of Denver have the right to establish and maintain a sewer system, which shall be divided into three classes, viz.: "public," "district," and "private" sewers. May establish sewers.

SEC. 2. Public sewers shall be established on or running parallel with Wazee street, at such times, to such extent, of such dimensions and materials, and under such regulations as may be provided by ordinance by the city council, and there shall be constructed such branches to sewers already constructed, or to be constructed, as may be considered expedient by said council; *Provided*, that no sewer shall be run diagonally through private property when it is practicable to construct it parallel with lines of such property; nor shall any public sewers be constructed through private property when it is practicable to construct Public sewers ; where established ; appropriation for.

it along a street, alley or public highway. An appropriation shall be made to meet the cost of each public sewer from the public revenue.

District sewers,
where estab-
lished.

SEC. 3. District sewers shall be established within the limits of districts to be prescribed by ordinance by the city council, and so as to connect with a public sewer or some natural course of drainage. Such district shall be subdivided, enlarged or changed by the city council, by ordinance, at any time previous to the construction of such sewer.

When city
council shall
cause to be con-
structed.

Character,
dimensions, etc.

Cost, how
assessed and
collected.

The city council shall cause sewers to be constructed in any district whenever a majority of the property holders resident therein shall petition therefor, or whenever the board of health recommend the same as necessary for sanitary reasons, and said recommendation is approved by the city council; and the character, dimensions and material of such sewer shall be prescribed and may be changed, diminished, enlarged or extended by ordinance; and such sewer shall possess all requisite laterals, inlets, man-holes and other appurtenances. As soon as a district sewer, with its inlets, man-holes and appurtenances is fully completed, the city council shall cause the city engineer to compute the whole cost thereof, and the city assessor shall assess the amount as a special tax against all the lots of ground in this district, respectively, without regard to improvements, and in proportion as their respective areas bear to the area of the whole district, exclusive of the public highway; and the council shall cause to be made a certified bill of such assessments against each lot in the district, in the name of the owner if known, which shall be collected and paid in the same manner as all other city taxes.

Private sewers.

SEC. 4. Private sewers connecting with the district sewers shall be constructed under such restrictions and regulations as the council may prescribe by general or special ordinance, but the city shall be at no expense in the construction, repairing or cleaning of the same.

Estimates and
bids.

The city engineer shall, in all cases except in case of necessary repairs requiring prompt attention, prepare and

submit to the council estimates of costs of any proposed work, and under the direction of the council, who shall advertise for bids and let out said work by contract to the lowest responsible bidder. Any other mode of letting out work shall be held as illegal and void.

No security on any bond shall be taken unless he shall pay taxes on and own property equal in amount to his liability on all bonds on which he may be security to the city, and no contract shall be made under this section without a bond for its faithful performance, with at least two sufficient sureties, to be approved by the said city council.

Every ordinance requiring such work to be done shall contain a specific appropriation from the proper revenue and fund, based upon an estimate of cost for the whole of the cost of each street, part of street or other object respectively, and every contract shall contain a clause to the effect that it is subject to the provisions of the charter, that the aggregate payments thereon shall be limited by the amount of such specified appropriation, and that on ten days' notice the work under said contract may, without cost to or claim against the city, be suspended by said council for want of means or other substantial cause; *Provided*, that on the complaint of any citizen and tax-payer that any public work is being done contrary to contract, or the work or material used is imperfect or different from what was stipulated to be furnished or done, the said council shall examine into the complaint, and may appoint three commissioners to act with the council committee on sewers, to examine and report on said work, and after such examination, or after considering the report of said commissioners, they shall make and order in the premises as shall be just and reasonable and what the public interest seems to demand, and such decisions shall be binding on all parties. The cost of such examination shall be borne by the contractor, if such complaint is decided to be well founded, and by the complainant if found to be groundless.

SEC. 5. *Provided*, that no public sewers shall be constructed under the provisions of this act until the question of constructing the same shall first have been submitted to

Bond and securities.

What ordinance shall contain.

What contract shall contain.

Complaint of tax-payer of violation of contract, etc.

Submission of question to vote.

a vote of such of the tax-payers of the city as are legal voters, and approved by a majority thereof.

Approved February 19, 1879.

AN ACT

To amend section seventeen of an act entitled an act to reduce the Law Incorporating the City of Denver, and the several acts amendatory thereof, into one act, and to revise and amend the same, as passed and approved April 6, 1877.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section seventeen of the act to which this is amendatory, be, and the same is hereby repealed, and that the following be enacted, to be numbered section seventeen of said act, and to stand in lieu of the section hereby repealed, to-wit:

Mayor may exercise veto power.

SECTION 17. Every resolution passed by the city council which appropriates exceeding three hundred dollars, and all ordinances, before either shall take effect, shall, within twenty-four hours after its passage, be presented to the mayor for his approbation; if he approves it, he shall sign it; if not, he shall return it with his objections in writing to the city clerk, who shall present the same at the next meeting of the city council, who shall enter such objections upon their record, and if the council be of the opinion the ordinance or resolution ought to pass, may proceed to reconsider the same; and if, after such reconsideration, two-thirds of the aldermen-elect shall agree and pass the same, said ordinance or resolution shall take effect the same as if the mayor had signed it. If the mayor shall not return the resolution or ordinance within five days, it shall take effect in the same manner as if he had signed it. The mayor may exercise the veto power delegated in this section to the entire annual appropriation ordinance, or to any separate appropriation in the same.

Approved February 4, 1879.

AN ACT

To amend Section Thirty-four of an act entitled "An Act to reduce the Law Incorporating the City of Denver, and the several acts amendatory thereof, into one act, and to revise and amend the same." Approved April 6, A. D. 1877.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section thirty-four of the act to which this is amendatory be, and the same is hereby repealed, and that the following be enacted, to be numbered section thirty-four of said last-named act, and to stand in lieu of the section hereby repealed, to-wit:

SEC. 34. In the fall of the year A. D. 1879, at the Time of holding election for mayor, treasurer and alderman in 1879. time fixed for holding the general election for state and county officers under the state laws, an election shall be held in each ward of said city for the election of a mayor, treasurer and one alderman from each ward of said city. Said officers so elected shall be elected to take the places, respectively, of the mayor, treasurer, and aldermen, whose terms of office terminate, by existing law, at that time. And the said mayor, treasurer and aldermen shall hold their respective offices for two years, and until their respec- Term of office. tive successors are elected and qualified. And forever thereafter there shall be held each year, in each ward of said city, an election for one alderman for each ward; and Time of holding election after 1879. every two years thereafter there shall be held in each ward an election for mayor and treasurer of said city; each officer so elected respectively to hold his office for two Term. years, and until their respective successors are elected and qualified. Such elections to be held at the time fixed for holding the general election for state and county officers under the state law. At all such elections occurring on the same day with general elections under the state laws, as aforesaid, the city council shall, so far as practicable, fix the voting places in each ward at or near the place fixed by the Place of voting. county authorities for holding the election on that day, and shall unite with the county authorities, if practicable, in

Registration.

Determination
of election when
two aldermen
elected from
same ward.

furnishing a force to preserve the public peace and quiet, and may also dispense with a registration, if deemed advisable, and adopt the registration of the board acting by appointment of the county commissioners, with such correction as may be deemed needful, and cause copies thereof to be made for the use of the judges of the city election, according to such rules and regulations as may be prescribed by ordinances, more than thirty days preceding the day of such election. In all cases where two aldermen are to be chosen from the same ward at any annual election, the alderman having the highest number of votes shall be declared elected for two years, and the candidate having the next highest number of votes for one year. And in the case of two successful candidates having an equal number of votes, the term of service to which they shall be respectively entitled shall be determined by the casting of lots in the presence of the city council, and the result shall be entered upon the journal of its proceedings.

Approved February 5, 1879.

AN ACT

To amend section fifty-nine of an act entitled "An act to reduce the Law Incorporating the City of Denver, and the several acts amendatory thereof, into one act, and to revise and amend the same." Approved April 6, A. D. 1877.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section fifty-nine of the act to which this is amendatory be, and the same is hereby repealed, and the following be enacted, to be numbered section fifty-nine of said last-named act, and to stand in lieu of the section hereby repealed, to-wit:

For what purposes city may borrow money and issue bonds.

SECTION 59. The city council shall have the power to contract an indebtedness on behalf of the city and upon the credit thereof, by borrowing money, or issuing the bonds

of the city, for the purpose of erecting public buildings ; for the purpose of constructing sewers for the city ; for the purpose of confining the channel of Cherry Creek, or for turning the channel of Cherry Creek as hereinafter set forth, and for acquiring the right of way for the said new channel ; for the purpose of the purchase or constructing of water works for fire and domestic purposes ; for the purpose of the constructing or purchase of a channel or canals, or some suitable system for supplying water for irrigation in the city ; and for the purpose of supplying a temporary deficiency in the revenue for defraying the current expenses of the city. The total amount of indebtedness for all pur- Amount.
poses shall not at any time exceed three per centum of the total assessed valuation of the taxable property of the city. No loan for any purpose shall be made, except it be by No loan made except by ordinance, which shall be irrevocable until the indebtedness ordinance.
therein provided for shall be fully paid, specifying the purposes to which the funds to be raised shall be applied, and providing for the levy of a tax, not exceeding in total amount for the entire indebtedness of the city, twelve mills Amount of levy.
upon each dollar valuation of the taxable property within the city, sufficient to pay the annual interest and extinguish the principal of such debt within the time limited for the debt, which shall not be less than ten years nor more than fifteen years ; and providing that said tax, when collected, Time for which loan may be made.
shall only be applied to the purposes in said ordinance specified, until the indebtedness shall be paid and discharged. But no such debt shall be created except for No debt created except for supplying the city with water for irrigating purposes ; and supplying city with water.
then not in excess of ten thousand dollars, unless the question of incurring the same shall, at a regular election of officers for the city, be submitted to a vote of such qualified electors of the city as shall in the year next preceding have paid a property tax therein, and a majority of those voting upon the question, by ballot deposited in a separate ballot- Submission to electors.
box, shall vote in favor of creating such a debt ; *Provided*, that nothing in this act shall prevent the city council from funding an indebtedness "not exceeding twenty thousand dollars, now due from said city to the German National

Council may fund
indebtedness
now due.

Bank of Denver, at a rate of interest not exceeding eight per cent. per annum, by issuing the bonds of said city, or otherwise, such bonds not to run longer than twenty years, as it by ordinance shall direct, without submitting the question to a vote of the people, as aforesaid; *Provided further*, that nothing herein contained shall be construed as permitting any additional indebtedness not now authorized by law."

Approved February 6, 1879.

AN ACT

For the relief of the Town of Ouray.

Be it enacted by the General Assembly of the State of Colorado:

Mayor may sell
lots and execute
deeds.

SECTION 1. That the mayor of the town of Ouray, by and with the consent of the board of trustees thereof, be, and he hereby is authorized to sell and execute deeds of conveyance to all parcels of lands and lots to which title from the government of the United States has been acquired for the use and benefit of the owners and occupants of said town, by virtue of an act of congress of March 2, 1867, entitled "An act for the relief of inhabitants of cities and towns upon the public lands, and to which no person has filed any legal and lawful claim."

Notice of sale.

SEC. 2. The mayor of said town shall first give thirty days' notice of the time and place of such sale by an advertisement, published once each week for five successive publications, in some newspaper published in the town of Ouray; and such sale [shall be made] by lots and parcels, to the highest bidder for cash, but no sale shall be made for a less sum than ten dollars for four thousand square feet of ground, or for a less amount, and at the same rate for a larger amount.

Terms of sale.

Private sale;
when may be
made; proviso.

SEC. 3. If any lots shall remain unsold for want of bidders, it shall be lawful for the said mayor, with the consent of the board of trustees of said town, to sell the same

at private sale; *Provided*, none shall be sold for a less sum than the price aforesaid; *and provided further*, that the mayor and board of trustees may set apart and reserve any of said lots for public use in lieu of offering the same for sale, and the said mayor shall thereupon execute to the town of Ouray a deed for the same.

SEC. 4. The moneys received from such sales shall be used—

Moneys received from sale, how used.

First—To pay for the expense of making such sales.

Second—To discharge any outstanding claims incurred in entering the town site of said town.

Third—The surplus, if any, shall be a special fund, to be used in making public improvements.

SEC. 5. That any person or persons who have received a deed or deeds to any lots or parcels of land in said town of Ouray, from either Milton W. Clive or from Hubbard W. Reed, claiming in said deed to be the president of the board of trustees in said town, in cases where there have been no adverse filings, and the said person shall be the sole and only claimant to the said lot or lots and parcels of lands [land] shall be entitled to receive from the mayor of said town, by and with the consent of the board of trustees thereof, on tender of the necessary fees for making, executing and acknowledging such deed, to be determined by said board, at any time within six months after this act shall take effect, a deed confirming and vesting the title to such lots and parcels of land in such sole claimant, his heirs and assigns.

Persons having received deeds from Milton W. Clive or Hubbard W. Reed.

Approved February 11, 1879.

AN ACT

Concerning cases in any District or County Court the Venue of which has been changed thereto.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That hereafter in any criminal cause pending in the district or county court of any county of this

Clerk or judge to keep account of expenses in cases of change of venue. state the venue of which has been changed thereto from some other county, it is hereby made the duty of the clerk of such district or county court, or the judge of the county court, where no clerk is provided or appointed, to keep an account, as near as may be, of all such expenses in any such case, except the fees of the jury and the officers of the county, and certify the same under his hand and the seal of such court to the board of county commissioners of the county in which such cause was originally brought, who shall, at their next session after the receipt of such certified account, issue orders upon the county treasurer of their county in favor of the different parties in such sum as they may be entitled to respectively, according to the aforesaid certified statement; *Provided, however,* that the fees of such cases accruing to the officers of the county, and of the court and jurors of the county in which the cause is tried, shall be paid by such county, and shall be refunded to such county by the county in which such cause was originally instituted; and it is hereby made the duty of the clerk or judge to certify the same to the county clerk of the county in which such case is tried.

To certify same to county commissioners.

Commissioners to issue orders upon county treasurer.

Fees of county officers, court and jury, how paid.

SEC. 2. And it shall be the duty of the county clerk of the county in which such change of venue cases are tried to make a certified statement of the fees of county officers and jurors incurred by his county in behalf of the county from which such case or cases were originally instituted, and send the same to the board of county commissioners of the county in which such cause was originally brought, who shall, at their next session after receipt of such certified statement, issue an order for the amount thereof upon the treasurer of their county in favor of the county treasurer of the county in which such cause was tried, in the same manner as county orders are drawn in other cases, and remit the same to the county treasurer of the county in whose favor the same has been drawn, who shall keep an account thereof, and when collected, he shall place the money to the credit of the general fund of the county; but before the remittance of such order, as aforesaid, the same shall be presented to the county treasurer of

Duty of county clerk of county in which case is tried.

County commissioners to issue order on treasurer in favor of county.

such county, who shall indorse thereon the date of such presentation, and whether there are any funds in his hands with which to pay the same, and the same shall draw the legal rate of interest from such date, and shall be paid out of the county funds.

Treasurer to keep account of and credit money to general fund. Indorsement of order.

SEC. 3. In civil cases, the venue of which has been changed from one county to another, the clerk or judge of the court shall keep an account of the jurors' and baliff's fees incurred by the county in which the cause is tried, and certify the same under his hand and the seal of his court to the county commissioners of the county in which the cause was originally brought, and said county commissioners shall cause a warrant to be drawn in favor of such county in like manner as provided in the preceding section in criminal cases.

Proceedings in civil cases.

SEC. 4. Whereas, in the opinion of this General Assembly an emergency exists, as contemplated in section nineteen of article five of the constitution, therefore this act shall take effect from and after its passage.

Emergency.

Approved February 19, 1879.

AN ACT

Providing for a Change of Venue in Preliminary Examinations before Justices of the Peace.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Persons arrested and brought before justices of the peace for examination on charge of any criminal offense, may have such examination removed from before such justice by filing an affidavit that said justice is so prejudiced against him or them that he or they believe they cannot have a fair and impartial investigation before such justice, in which case the justice shall immediately transmit all papers connected with such examination to the nearest acting justice; or, in case of his absence or inability to act, to any other justice of the peace of the next adjoining precinct in the county, who shall proceed to hear and

Change of venue in preliminary examinations before justices; for what cause granted; proceedings.

Proviso.

determine the matter as though it originally commenced before him; *Provided*, the defendant shall be held in charge till the complaint shall be heard and disposed of by the justice to whom the papers shall be sent as aforesaid.

Approved February 8, 1879.

AN ACT

To amend Section One Hundred and Twelve of an act entitled "Wills, Executors and Administrators," Chapter CIII. Revised Statutes [General Laws].

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That section one hundred and twelve of chapter ciii. of the General Laws be, and the same is hereby amended so as to read as follows, to-wit:

Time, place and manner of sale of estate of decedent.

SEC. 112. Every sale of real estate of any decedant, in pursuance of this chapter, shall be made at such place and upon such notice as the court may direct, not less than twenty days, and every such sale shall be at public auction, unless in the opinion of the court it would benefit the estate of the deceased to sell the whole or any part of such real estate at private sale; in which case, the court, if the same is asked for in the petition, may order such real estate, or any part thereof, to be thus sold by the executor or administrator; but such order or [of] sale shall not be granted until such executor or administrator shall have made and returned into court an inventory of such real estate, and caused the same to be appraised in the manner prescribed for the appraisement of personal estate, and such appraisement returned into court; nor shall such real estate be sold for less than the appraised value thereof, nor until after notice of the terms of the sale be given as the court may direct; nor shall such executor or administrator become the purchaser.

Executor or administrator to return inventory and appraisement into court.

Approved January 31, 1879.

AN ACT

To repeal Chapter One Hundred and Five of the General Laws of the State of Colorado, entitled "Wolves and Coyotes," and for other purposes.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. That chapter one hundred and five of the General Laws of the State of Colorado, entitled "Wolves and Coyotes," be, and the same is hereby repealed, and the following enacted in lieu thereof:

SEC. 2. That any person who shall kill any wolf or coyote (or wolves or coyotes), within this State, shall receive a premium of seventy five cents for each wolf or coyote so killed, to be paid out of the state treasury, as hereinafter provided.

SEC. 3. That any person claiming such premium shall produce the scalp (or scalps), with the ears entire, before any officer qualified to administer an oath, in the county in which such wolf or coyote (or wolves or coyotes) was (or were) killed, and take and subscribe the following oath, to-wit:

I, ———, do solemnly swear (or affirm) that the scalp (or scalps) here produced by me this day, are of a wolf or coyote, (or wolves or coyotes, giving the number,) killed within the county of ———, in the State of Colorado, within six months last past.

To which oath the officer administering the same shall append the usual jurat, subscribed by himself as such officer, for which he shall receive from the affiant the sum of twenty-five cents.

SEC. 4. That said premium shall be paid by the county treasurer of the county in which such wolf or coyote (or wolves or coyotes) was (or were) killed, upon presentation to him by such claimant, or some one for him, of such scalp or scalps, with the ears entire, together with the affidavit aforesaid; and the amount so paid out by said county treasurer shall be credited to said county treasurer by the state treasurer, upon the sworn statement of said

Premium for killing wolf or coyote.

Person claiming premium to produce scalp and ears entire.

Affidavit to be made upon delivery of scalps

County treasurer to pay premium upon presentation of scalps and affidavit.

When State treasurer to credit amount paid by county treasurer.

county treasurer as to the number of wolves or coyotes killed and paid for in his county, when accompanied by the affidavits provided for in section three of this act.

SEC. 5. It shall be the duty of the county treasurer to immediately burn or otherwise effectually destroy all scalps presented and paid for by him as provided in the preceding section.

County treasurer
to destroy scalps
paid for.

Approved January 31, 1879.

RIENZI STREETER,

Speaker of the House of Representatives.

H. A. W. TABOR,

President of the Senate.

FREDERICK W. PITKIN,

Governor.

AMENDMENTS

TO THE

CODE OF CIVIL PROCEDURE

OF THE

STATE OF COLORADO,

ENACTED BY THE

SECOND GENERAL ASSEMBLY.

1879.

AN ACT

To amend "An act providing a System of Procedure in Civil Courts of Justice of the State of Colorado."

Be it enacted by the General Assembly of the State of Colorado :

SECTION 1. Section sixty-one of said act is hereby repealed, and the following shall stand in lieu thereof as section sixty-one :

When the answer contains new matter, constituting a defense, or a counter-claim, or cross-complaint or set-off, the plaintiff shall, within ten days (said days to be computed from the time of the filing of such answer), reply or demur to the same for insufficiency, stating in his demurrer the grounds thereof; and he may also, within the same time, demur to one or more defenses, set up in the answer; sham and irrelevant answers and defenses, and so much of any pleading as may be irrelevant, redundant, immaterial or insufficient, may be stricken out on motion, and upon such terms as the court, in its discretion, may impose.

SEC. 2. Section sixty-three of said act is hereby repealed, and the following shall stand in lieu thereof as section sixty-three :

Every pleading must be subscribed by the party or his attorney; and when the complaint is verified, or when the state, or any officer of the state, in his official capacity, is plaintiff, the answer must be verified, unless an admission of the truth of the complaint might subject the party to a criminal prosecution, or unless an officer of the state, in his official capacity, is defendant. In all cases of a verification of a pleading, the affidavit of the party must state that the same is true of his own knowledge, except as to the matters which are therein stated on his information or belief, and as to those matters that he believes it to be true;

a Replication of plaintiff, and sham and irrelevant defenses.

Pleadings, how and by whom verified.

and where a pleading is verified, it must be by the affidavit of a party, unless the parties are absent from the county where the attorney resides, or from some cause unable to verify it, or the facts are within the knowledge of his attorney or other person verifying the same. When the pleading is verified by the attorney, or any other person except one of the parties, he must set forth in the affidavit the reasons why it is not made by one of the parties. When a corporation is a party, the verification may be made by any officer thereof. When an action is brought upon a written instrument, and the complaint contains a copy of such instrument, or a copy is annexed thereto, the genuineness and due execution of such instrument are deemed admitted, unless the answer denying the same to be verified.

SEC. 3. Section seventy-four of said act is hereby repealed, and the following shall stand in lieu thereof as section seventy-four:

After the demurrer and before the trial of the issue of law therein, the pleadings demurred to may be amended as of course, and without costs, by filing the same as amended, and serving a copy thereof on the adverse party, or his attorney, within ten days, who shall have ten days thereafter in which to demur or answer thereto, if in vacation; but if during the term of court, the court shall fix the time by order to expedite the trial, but the party shall not so amend more than once. A demurrer shall be deemed waived by the filing of an answer to the same cause of action at the same time of filing the demurrer, and when the demurrer to a complaint is overruled, and there is no answer filed, the court may, upon terms, allow the answer to be filed. If the demurrer to the answer be overruled, and there be no replication then filed, the court may, upon terms, allow a replication to be filed. When a demurrer to a replication is overruled, new matter in the replication shall be taken as denied. Where facts occurring subsequent to the commencement render it proper, the same may, by leave of court, be presented by supplemental pleadings, and issue taken thereon in the same manner as in the case of original pleadings.

If a demurrer, heard in vacation, shall be sustained at the hearing, the opposite party may amend in such time and upon such terms as the judge by order shall prescribe, and the amended pleading shall be answered or demurred to within ten days after such amendment. If the demurrer shall be overruled, the party demurring shall file further pleadings within five days after the demurrer shall be overruled, unless further time be granted. At the hearing either party may argue the demurrer orally, or submit it on written argument. The judge shall immediately transmit the order made at the hearing to the clerk, who shall at once enter the same in the records of the court. If any pleading shall not be filed within the time as prescribed and provided for in this section respectively, default shall be entered against the defaulting party as in other cases.

SEC. 4. Section eighty-one of said act is hereby repealed, and the following shall stand in lieu thereof as section eighty-one:

The plaintiff, or his agent, shall file with the clerk of the court a written undertaking, executed by two or more sufficient sureties approved by the clerk, to the effect that they are bound to the defendant in double the value of the property as stated in the affidavit for the prosecution of the action without delay, and with effect, and for the return of the property to the defendant, if return thereof be adjudged, and for the payment to him of such sum as may from any cause be recovered against the plaintiff. The clerk shall thereupon issue a writ requiring the sheriff to forthwith take the property described in the affidavit, if it be in possession of the defendant, or his agent, and retain it in his custody until delivered as hereinafter provided.

Security and
justification.

Requisition to
sheriff.

The sheriff shall also, without delay, serve on the defendant a copy of the writ, by delivering to him personally, if he can be found, or to his agent, from whose possession the property is taken; or, if neither can be found, by leaving them at the usual abode of the defendant with some person of suitable age and discretion; or, if he has no place of abode, by putting said copy in the nearest postoffice, directed to the defendant.

Service of writ,
how made.

SEC. 5. Section eighty-two of said act is hereby repealed, and the following shall stand in lieu thereof as section eighty-two :

Exception to
sureties, and pro-
ceedings thereon.

The defendant may, within two days after the service of a copy of the writ, give notice to the clerk that he excepts to the sufficiency of the sureties on plaintiff's undertaking. If he fails to do so within two days after such service, he shall be deemed to have waived all objections to them. When the defendant excepts, the sureties shall justify, on notice before the clerk of the court, within two days after such notice, and if they fail to justify in said time the property shall be returned by the sheriff to the defendant. The clerk shall be responsible for the sufficiency of the sureties until the objection to them is waived, as above provided, or until they justify.

If the defendant except to the sureties, he cannot reclaim the property, as provided in the next section.

SEC. 6. Section eighty-three of said act is hereby repealed, and the following shall stand in lieu thereof as section eighty-three :

Defendant, who
entitled to re-
delivery.

At any time within forty-eight hours from the time of the taking of the property and the service of the writ, the defendant may, if he do not except to the sureties of the plaintiff, require the return of the property, upon giving to the sheriff a written undertaking, executed by two or more sufficient sureties, to the effect that they are bound to the plaintiff in double the value of the property, as stated in the affidavit of the plaintiff, for the delivery thereof to the plaintiff, if such delivery be adjudged, and for the payment to him of such sum as may for any cause be recovered against the defendant. If a return of the property be not so required in such time, it shall be delivered to the plaintiff, except as provided in this chapter.

SEC. 7. Section eighty-four of said act is hereby repealed, and the following shall stand in lieu thereof as section eighty-four :

Justification of
defendant's
sureties

The defendant's sureties, upon notice to the plaintiff, and within twenty-four hours, shall justify before the clerk

of the court in the same manner as is in this chapter provided for the plaintiff's sureties to justify, and upon such justification the sheriff shall deliver the property to the defendant.

SEC. 8. Section ninety-three of said act is hereby repealed, and the following shall stand in lieu thereof as section ninety-three:

Before issuing the writ of attachment the clerk shall require a written undertaking on the part of the plaintiff, with sufficient sureties, to be approved by the clerk, in a sum in not less than double the amount claimed by the plaintiff, to the effect that if the defendant recover judgment, or if the court shall finally decide that the plaintiff was not entitled to an attachment, the plaintiff will pay all costs that may be awarded to the defendant, and all damages he may sustain by reason of the wrongful suing out of the attachment, not exceeding the sum specified in the undertaking. Said sureties may be required by the defendant to satisfy the clerk of the court that each for himself is worth the amount for which he is willing to become security in the undertaking over and above his just debts and liabilities in property not by law exempt from execution in this state.

Undertaking
required of plain-
tiff before writ of
attachment shall
issue.

SEC. 9. Section ninety-five of said act is hereby repealed, and the following shall stand in lieu thereof as section ninety-five:

The defendant against whom a writ of attachment has issued, or his agent or attorney, may at any time within ten days from the service of the writ of attachment, by an affidavit, traverse and put in issue the matters alleged in the affidavit upon which the attachment is based, and if the plaintiff shall substantiate either one of the causes alleged in his affidavit, the said attachment shall be sustained, otherwise the same shall be dissolved; and if the debt for which the action is brought is not due, such action shall be dismissed. The trial of the issue formed by the affidavits shall be by jury, unless a jury is waived by the parties. But if the debt is due, the action may proceed to judgment

Attachment, how
traversed.

after the attachment is dissolved, as in other actions where no attachment is issued.

SEC. 10. Section ninety-eight of said act is hereby repealed, and the following shall stand in lieu thereof as section ninety-eight:

Writ, how
executed.

The sheriff to whom the writ is directed and delivered shall execute the same without delay, and if the undertaking mentioned in this chapter be not given by the defendant, then as follows:

First—Real property standing upon the records of the county in the name of the defendant, shall be attached by filing a copy of the writ, together with a description of the property attached, with the recorder of the county.

Second—Real property, or any interest therein, belonging to the defendant, and held by any other person, or standing upon the records of the county in the name of any other person (but belonging to the defendant) shall be attached by leaving with such person or his agent a copy of the writ and a notice that such real property (giving a description thereof) and any interest therein belonging to the defendant, are attached, pursuant to such writ, and filing a copy of such writ and notice with the recorder of the county.

Third—Personal property capable of manual delivery shall be attached by taking it into custody.

Fourth—Debts and credits and other personal property not capable of manual delivery, shall be attached by leaving with the person owing such debts, or having in his possession or under his control, such credits, and other personal property, or with his agent, a notice that the debts owing by him to the defendant, or the credits and other personal property in his possession, or under his control, belonging to the defendant, are attached, in pursuance of the writ of attachment issued in said cause.

SEC. 11. Section one hundred and one of said act is hereby repealed, and the following shall stand in lieu thereof as section one hundred and one:

Upon receiving information in writing from the plaintiff

or his attorney, that any person has in his possession, or Garnishment. under his control, any credits or other personal property belonging to the defendant, or is owing any debt to the defendant, the sheriff shall serve upon such person a notice that such credits or other property or debts, as the case may be, are attached in pursuance of the writ of attachment issued in said cause, and every municipal or other corporation, or *quasi* corporation, sheriff, or other public officer or trustee shall be liable to garnishment under the provisions of this chapter.

SEC. 12. Section one hundred and two of said act is hereby repealed, and the following shall stand in lieu thereof as section one hundred and two:

All persons having in their possession, or under their When garnishee liable to plaintiff. control, any credits or other personal property belonging to the defendant, or owing any debts to the defendant at the time of service upon them of the notice, as provided in the last section, shall be, unless such property be delivered up or transferred, or such debts be paid to the sheriff, liable to the plaintiff for the amount of such credits, property or debts until the attachment be discharged, or any judgment recovered by him in the action be satisfied.

SEC. 13. Section one hundred and four of said act is hereby repealed, and the following shall stand in lieu thereof as section one hundred and four:

The sheriff shall make a full inventory of the property attached and return the same upon the writ.

To enable him to make such return as to debts and Inventory of attached property. credits attached, he shall request, at the time of service, the party owing the debt, or having the credit, to give him a statement, which statement shall be sworn to by the party, his agent or attorney, stating the amount and description of each, and if such statement be refused, he shall return the fact of refusal with the writ. The party refusing to give the statement may be required to pay the costs of any proceedings taken for the purpose of obtaining information respecting the amount of such debt or credit, and may be ordered to furnish such statement under penalty of contempt.

SEC. 14. Section one hundred and fifty-four of said act is hereby repealed, and the following shall stand in lieu thereof as section one hundred and fifty-four:

Issue of law, how tried; of fact, how tried.

An issue of law shall be tried by the court, unless it be referred, as provided in the title in regard to references. In actions for the recovery of specific, real or personal property, with or without damages, or for money claimed as due on contract, or as damages for breach of contract, or for injuries, an issue of fact must be tried by a jury, unless a jury trial is waived or a reference is ordered, as provided in the code. In other cases, issues of fact must be tried by the court, subject to its power to order any such issue to be tried by a jury, or to be referred to a referee, as provided in this code.

SEC. 15. Section one hundred and eighty-eight of said act is hereby repealed, and the following shall stand in lieu thereof as section one hundred and eighty-eight:

When the parties do not consent thereto, the court may, upon application of either, or upon its own motion, direct a reference in the following cases:

When the court may direct reference.

First. When the trial of an issue of fact requires the examination of a long account on either side, in which case the referees may be directed to hear and decide the whole issue, or report upon any specific question of fact involved therein.

Second. When the taking of an account is necessary for the information of the court to assess damages before judgment, or for carrying a judgment or order into effect.

Third. When a question of fact, other than upon the pleadings, arises upon motion or otherwise in any stage of [the] action; or,

Fourth. When it is necessary for the information of the court in a special proceeding.

SEC. 16. Section two hundred and eleven of said act is hereby repealed, and the following shall stand in lieu thereof as section two hundred and eleven:

If, how long to continue.

Immediately after entering the judgment, the clerk shall make the proper entries of the judgment, under

appropriate heads, in the docket kept by him ; from the time the judgment is docketed, and a transcript of the docket filed with the recorder of the county, it shall become a lien upon the real property of the judgment debtor not exempt from execution, in the county, owned by him at the time, or which he may afterwards acquire, until said lien expires. The lien shall continue for six years from the entry of judgment, unless the judgment be previously satisfied.

SEC. 17. Section two hundred and twenty-four of said act is hereby repealed, and the following shall stand in lieu thereof as section two hundred and twenty-four :

After issuing, or return of an execution against property of a judgment debtor, or any one of several debtors in the same judgment, and upon proof, by affidavit or otherwise, to the satisfaction of the judge, that any person or corporation has property of such judgment debtor, or is indebted to him in an amount exceeding twenty-five dollars, the judge may, by an order, require such person or corporation, or any officer or member thereof, to appear, at a specified time or place, before him, or a referee appointed by him, and answer concerning the same.

Examination of debtors, of judgment debtors, or of those having property belonging.

SEC. 18. Section two hundred and twenty-six of said act is hereby repealed, and the following shall stand in lieu thereof as section two hundred and twenty-six :

The judge or referee may order any property of the judgment debtor, not exempt from execution, in the hands of such debtor or any other person, or due to the judgment debtor, to be applied towards the satisfaction of the judgment, except that the earnings of the debtor, for his personal services, to the amount of twenty-five dollars shall not be so applied, when it shall be made to appear by the debtor, affidavit or otherwise, that such earnings are necessary for the use of a family supported wholly or partly by his labor.

Judge may order property applied toward satisfaction of judgment.

SEC. 19. Section two hundred and twenty-nine of said act is hereby repealed, and the following shall stand in lieu thereof as section two hundred and twenty-nine :

In actions for the foreclosure of mortgages, the court shall have the power, by its judgment, to direct a sale of the encumbered property, or as much as may be necessary, and

Proceeds of sale of property to be applied to costs, expenses, and payment of plaintiff.

the application of the proceeds of the sale to the payment of the costs of the court and expenses of the sale, and the amount due to the plaintiff; and if it appear from the sheriff's return that the proceeds are insufficient and a balance still remains due, judgment shall be docketed for such balance against the defendant or defendants personally liable for the debt, and shall then become a lien on the real estate of such judgment debtor, as in other cases in which execution may be issued.

Judgment to have same force and effect in case of party holding unrecorded conveyance or lien as if party to action.

No person holding a conveyance from or under the mortgagor, or of the property mortgaged, or having a lien thereon, which conveyance or lien does not appear on record in the proper office at the time of the commencement of the action, need be made a party to such action, and the judgment therein rendered and the proceedings therein had, shall be as conclusive against the party holding such unrecorded conveyance or lien, as if he had been made a party to said action, and shall, in all respects, have the same force and effect.

SEC. 20. Section three hundred and ninety-seven of said act is hereby repealed, and the following shall stand in lieu thereof as section three hundred and ninety-seven :

Service on non-residents.

When a plaintiff or a defendant who has appeared, resides out of the state, and has no attorney in the action or proceeding, the service may be made on the clerk for him. But in all cases where the party has an attorney in the action or proceeding, the service of papers, when required, shall be upon the attorney, or upon the party himself, except of summons, writs and other process issued in the suit, and of papers to bring him into contempt, which shall be served on the party.

Exceptions to depositions made and disposed of before trial.

SEC. 21. In all trials in the district and county courts of this state, where depositions may be used, in such trials all objections and exceptions to such depositions shall be made and disposed of before the trial.

Judges and courts may hear and determine motions and demurrers, make orders, etc., in vacation with like effect as in term time.

SEC. 22. In vacation, at chambers, the judges of the district courts in their respective districts, and the judges of the county courts in their respective counties, may hear and determine any and all motions and demurrers; may upon

good cause shown, enlarge the time to answer, reply or demur; may make and direct any and all interlocutory orders, rules or other proceedings preparatory to the trial and disposition of causes on the merits, in the same manner and with the like effect as the said courts could direct or make the same in term time, reasonable notice of the application for such rule or order being first given to the adverse party, or his attorney, and it shall be the duty of the district judges, each in his own district, by general rule, to prescribe the time or times and place or places, at which motions and demurrers in actions pending in his district may be brought on for hearing in vacation.

SEC. 23. In all cases in the district and county courts where either party shall except to any ruling, decision or opinion of the court, and shall reduce such exception or exceptions to writing, it shall be the duty of the judge to allow the same, and to sign and seal the same at any time during the term of the court at which such exceptions were taken, or at any time thereafter to be fixed by the court, and at any time when any judge shall neglect or refuse to allow and sign and seal such bill of exceptions, then it shall be lawful for the suitor, or his attorney, to make and attach to such bill of exceptions the affidavit of two or more attorneys of the court, or other persons who were present at the time of the trial and when such exceptions were taken, stating that such bill of exceptions is correct and true; and when such bill of exceptions is so allowed, and signed and sealed by the judge, or so attested and proved by affidavit, it shall thereupon be filed by the clerk, and shall become a part of the record of such cause.

Exceptions to opinion of court.

Proceedings in case of neglect or refusal of judge to sign bill of exceptions.

When bill to be filed by clerk.

SEC. 24. Exceptions taken to opinions and decisions of the district and county courts, upon the trial of causes in which the parties agree that both matters of law and fact may be tried by the court, shall be deemed and held to have been properly taken and allowed; and the party excepting may assign for error before the supreme court any decision or opinion so excepted to, whether such exception relates to receiving improper or rejecting proper testimony,

When exceptions to opinions deemed properly taken and allowed.

or to the final judgment of the court upon the law and evidence.

Limitation exceptions.

SEC. 25. Exceptions taken to opinions or decisions of the district and county courts overruling motions in arrest of judgments, motions for new trials, for continuance of causes, and in sustaining motions for non-suit, shall be allowed, and the party excepting may assign for error any opinion so excepted to.

When appeals to supreme court allowed.

SEC. 26. Appeals to the supreme court from the district and county courts shall be allowed in all cases where the judgment or decree appealed from be final, and shall amount, exclusive of costs, to the sum of twenty dollars, or relate to a franchise or freehold; *Provided*, such appeal be prayed for within three days after the time of rendering the judgment or decree; *and provided*, the party praying for such appeal shall, by himself, or agent, or attorney, give bond with a sufficient surety, to be approved by the district or county court (or the clerk thereof, when the order granting such appeal may so direct), and filed in the office of the clerk of the district or county court within the time limited by the court; which bond shall be in a reasonable sum sufficient to cover the amount of the judgment appealed from, and costs, and conditioned for the payment of the judgment, costs, interest and damages in case the judgment shall be affirmed, and also for the due prosecution of the appeal, and the obligee in such bond may at any time, on a breach of the condition thereof, have and maintain an action at law, as on other bonds. The supreme court may, in its discretion, allow defective appeal bonds to be amended.

Time in which appellant may lodge record of decree appealed from with clerk.

SEC. 27. The appellant shall lodge in the office of the clerk of the supreme court an authenticated copy of the record of the judgment or decree appealed from, by or before the third day of the next term of said supreme court; *Provided*, that if there be not thirty days between the time of making the appeal and the sitting of the supreme court, then the record shall be lodged as aforesaid at or before the third day of the next succeeding term of the supreme court, otherwise the said appeal shall be dismissed, unless

further time shall have been granted by the supreme court for good cause shown.

SEC. 28. In all cases of appeals and writs of error the supreme court may give final judgment and issue execution, or remand the cause to the district or county court in order that execution may be there issued, or that other proceedings may be had thereon.

Court may give final judgment or remand cause.

SEC. 29. When an appeal or writ of error shall be prosecuted from the judgment of any district or county court of this state to the supreme court, and said appeal or writ of error shall be dismissed, or the judgment of the district or county court affirmed, it shall be the duty of the clerk of the district or county court from which said appeal or writ of error was prosecuted, upon a copy of the order of the supreme court dismissing said appeal or writ of error, or affirming said judgment, being filed in his office, to issue execution upon said judgment, and to proceed thereon in all respects as though no appeal or writ of error had been prosecuted from said judgment.

Duty of clerk upon final decision of court.

SEC. 30. In all cases where a judgment or decree shall be rendered in any district or county court, in any case whatever, either in law or in chancery, against two or more persons, either one of said persons shall be permitted to remove said suit to the supreme court, by appeal or writ of error, and for that purpose shall be permitted to use the names of all said persons, if necessary; but no costs shall be taxed against any person who shall not join in said appeal or writ of error, and all such cases shall be determined in said supreme court as other suits are, and in the same manner as if all the parties had joined in said appeal or writ of error.

Costs not to be taxed against person who does not join in appeal or writ of error.

SEC. 31. The supreme court, in case of a partial reversal, shall give such judgment or decree as the inferior court ought to have given, or remand the cause to the inferior court for further proceedings, as the case may require.

Proceedings in case of partial reversal.

SEC. 32. A writ of error shall not be brought after the expiration of five years from the rendition of the judg-

Limitation on writ of error.

ment complained of; but when a person, thinking himself aggrieved by any judgment or decree that may be reversed in the supreme court, shall be an infant, *non compos mentis*, or imprisoned, when the same was rendered, the time of such disability shall be excluded from the computation of the said five years.

When writ of error shall operate as a *supersedeas*.

SEC. 33. No writ of error shall operate as a *supersedeas*, unless the supreme court, or, if application be made therefor in vacation, some justice of the supreme court, after inspecting a copy of the record in the cause, shall order such writ of error to be made a *supersedeas*; nor until the party applying for such writ shall file a bond in the office of the clerk of the supreme court, with the conditions required in cases of appeals, approved by the court or justice allowing such order for a *supersedeas*, or, if such order shall so direct, then by the clerk of some court of record; the clerk issuing such writ of error shall endorse thereon that it shall be a *supersedeas*, and operate accordingly; and the parties in writs of error shall be subject to the same judgment and mode of execution as provided in cases of appeal.

SEC. 34. Whenever the supreme court shall be equally divided in opinion, on hearing an appeal or writ of error, the judgment of the court below shall stand affirmed.

Failure to prosecute appeal.

SEC. 35. In all cases of appeals to the supreme court where the appellant shall fail to prosecute the appeal, the supreme court shall, upon dismissing the appeal, enter judgment against the appellant for not less than five or more than twenty per cent. upon the amount of judgment for damages, in consequence of the delay occasioned by the appeal.

Scire facias to defendants in error.

SEC. 36. In all cases in which a writ of error shall be issued, the clerk of the supreme court shall also issue a *scire facias*, or summons to hear errors, directed to the sheriff or other officer of the proper county, where the defendant or defendants in error reside or may be found, commanding him to summon the defendant or defendants in error to appear at the next term of the supreme court, and show cause, if any he or they have, why the judgment or decree men-

tioned in the writ of error should not be reversed. If there are several defendants in error, residing in different counties, the plaintiff in error may have separate writs issued to each of the counties where such defendants reside.

SEC. 37. If the plaintiff in error, or other person for him, shall at any time file in the office of the clerk of the supreme court an affidavit, setting forth that the defendant has gone out of this state, so that process cannot be served upon him, or that he is not a resident of this state, or, on due inquiry, cannot be found, or is concealed within this state, or evades service of process, or that process cannot be served on him, it shall be the duty of the clerk to cause publication of notice to such defendant to be made in some newspaper published in this state, setting forth the pendency of the writ of error, the names of the parties, and the time when the *scire facias* or summons may be returnable, when [which] notice shall be published for four consecutive weeks; and if the first insertion of such notice shall not be made at least sixty days before the return-day of the writ of error, the cause shall be continued to the next succeeding term of the supreme court, and it shall be the duty of the plaintiff in error or some one for him, to send, post-paid by mail, a copy of such notice to the defendant in error, if the place of residence of him shall be known to, or after diligent inquiry, can be ascertained by the plaintiff in error; and upon filing a certificate of the publication of such notice, made by the publisher of the newspaper in which the same shall be published, together with an affidavit that copies of such notice have been sent to the defendant in error, as herein provided, or that the residence of such defendant is unknown to, and cannot, after diligent inquiry, be ascertained by the plaintiff in error, the cause shall proceed as if the defendant had been personally served with process.

SEC. 38. Writs of error shall lie from the supreme court to every final judgment of the several district and county courts of this state, and such writs of error shall be amendable, and this section shall be deemed to apply to all judgments or decrees which have been rendered since the

How process
served upon
non resident
defendants in
error.

Writs of error
amendable

This section
relates back to
Oct. 1st, 1877.

first day of October, A. D. 1877, by any district or county court.

When writs of error amendable.

SEC. 39. All writs of error wherein there shall be any variance from the original record, or any other defect, may be amended and made agreeable to such record, by the respective courts where such writs of error are or shall be made returnable.

Repeal not to affect appeals to supreme court, taken prior to time this act takes effect, nor to affect certain suits; proviso.

SEC. 40. The repeal of any sections of the act to which this act is amendatory shall not abate or in any manner effect [affect] any appeal to the supreme court from the several district and county courts in this state, which have been taken prior to the time this act takes effect; nor shall the repeal of such sections abate or in any manner effect [affect] any suit in attachment and claim and delivery [which] shall be prosecuted to final judgment and determination under the sections so repealed; *Provided*, that in such suits in attachment and claim and delivery, appeals may be taken from the several district and county courts under the provisions of this act, and writs of error shall lie in all such cases as herein provided for cases generally.

Sections repealed.

SEC. 41. Sections sixty-two (62), one hundred and six (106), one hundred and nineteen (119), one hundred and eighty-five (185), one hundred and eighty-six (186), one hundred and ninety-four (194), one hundred and ninety-five (195), one hundred and ninety-six (196), one hundred and ninety-seven (197), two hundred and ten (210), three hundred and thirty-five (335), three hundred and thirty-seven (337), three hundred and thirty-eight (338), three hundred and thirty-nine (339), three hundred and forty (340), three hundred and forty-one (341), three hundred and forty-two (342), three hundred and forty-three (343), three hundred and forty-four (344), three hundred and forty-five (345), three hundred and forty-six (346), three hundred and forty-seven (347), three hundred and forty-eight (348), three hundred and forty-nine (349), three hundred and fifty (350), three hundred and fifty-one (351), three hundred and fifty-two (352), three hundred and fifty-three (353), three hundred and fifty-four (354), three hundred and fifty-five (355), three hundred and fifty-six (356), three hundred and fifty-

seven (357), three hundred and fifty eight (358), three hundred and fifty nine (359), and three hundred and sixty (360) of said act are hereby repealed.

SEC. 42. It is the opinion of this General Assembly ^{Emergency.} that an emergency exists, therefore this act shall take effect and be in force from and after its passage.

Approved February 24, 1879.

SPECIAL LAWS

OF THE

TERRITORY OF COLORADO,

ENACTED IN THE YEARS 1866, 1870, 1872 AND 1874,

AFFECTING THE COUNTIES OF

CONEJOS, COSTILLA, HUERFANO & LAS ANIMAS.

PUBLISHED IN PURSUANCE OF AN ACT

OF THE

SECOND GENERAL ASSEMBLY.

APPROVED FEBRUARY 12, 1879.

1879.

AN ACT

Prescribing the Duties of County Commissioners in Las Animas County, in Regard to Establishing Voting Precincts.

Be it enacted by the Council and House of Representatives of Colorado Territory:

That hereafter the county commissioners of Las Animas county shall not establish any election precincts in which the number of qualified electors shall be less than fifty (50) in number entitled to vote in such precinct when established.

SEC. 2. That this act shall take effect and be in force from and after its passage.

Approved February 13, 1874.

AN ACT

For the protection of Growing Crops.

Be it enacted by the Council and House of Representatives of Colorado Territory:

SECTION 1. That the justices of the peace of the ^{Counties.} counties of Costilla, Conejos, Huerfano and Las Animas, in their respective precincts, are authorized, and it is hereby made their duty, to notify and require the inhabitants of their respective precincts, by public notice posted in not less than three public places in their respective precincts, on or before the first day of May in each year, to keep in the care of herders, all horses, mules, asses, neat cattle, hogs, sheep ^{Notice of stock to be herded.}

and goats, from the tenth of May until the twentieth day of October.

Proceedings in
case of damage.

SEC. 2. If any such stock as prescribed in the preceding section shall be found injuring the crops of any person or persons of the above named counties, the party injured may take in custody such animals, and make complaint before the justice of the peace of the precinct in which such damage shall have been committed, whereupon such justice shall proceed forthwith to appoint three disinterested appraisers, who shall appraise the damages caused, and report their decision to the justice; and the party or parties whose stock shall have been found injuring any crops as aforesaid, shall be held responsible for any and all damage so committed, to be collected in the same manner as in other cases, together with all costs of proceedings; and the animal or animals so found injuring any crops may be taken and held as a security for the payment of such damages and costs.

Security.

Pay of
appraisers.

SEC. 3. The appraisers appointed under the provisions of the foregoing section, shall be allowed the sum of twenty-five cents each, to be paid by the party whose animals shall have been found damaging.

SEC. 4. That all acts and parts of acts inconsistent with this act, be and the same are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved February 8, A. D. 1870.

AN ACT

To amend an act for the protection of Growing Crops.

Be it enacted by the Council and House of Representatives of Colorado Territory:

This act applies
to Las Animas
county.

That the following be added to section one (1) of said act: *Provided*, That the notices required to be posted in the county of Las Animas, shall be posted on the first day

of April in each year, requiring the people of said county to keep in the care of herders all horses, mules, asses, neat cattle, hogs, sheep and goats, from the 10th day of April until the first day of November.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved February 3d, 1874.

AN ACT

To Regulate Ditches Used for Farming Purposes in the Counties of Costilla and Conejos.

Be it enacted by the Council and House of Representatives of Colorado Territory:

SECTION 1. That the citizens of the counties of Costilla and Conejos, who are engaged in agricultural pursuits, are hereby authorized and empowered to hold an election on the first Monday of March in each year, for the election of superintendents of acequias (ditches) as follows, to-wit: One superintendent for each and every acequia madra (main ditch) in the counties aforesaid, to be chosen on said first Monday in March, by those persons who are in occupation of the lands adjoining, for farming purposes.

Superintendents of ditches elected in Conejos and Costilla counties

SEC. 2. The county clerk of each of the aforesaid counties shall give notice of the election to be holden as aforesaid, by posting at least one public notice thereof in each of the election precincts of the said counties respectively, at least ten days before the day of election.

County clerks of Costilla and Conejos counties to give notice of election.

How given.

SEC. 3. Any person who shall be guilty of voting, who is not entitled to vote under the provisions of this act, shall be liable to a fine of not less than one dollar, nor more than five dollars, the one-half to go to the informant and the other half to be placed in the hands of the superintendent of acequias, to be used in repairing acequias.

Fraudulent voting

Penalty. One-half of fine to go to informant, other half for benefit of ditch

SEC. 4. The superintendents are empowered to call

Powers of superintendents.

Delinquents
may be fined.

Fines—how ap-
propriated.

Duties of super-
intendents.

May be fined for
malfeasance.

Fine—how
divided.

Superintendents
neglecting duty
liable for result-
ant damage and
fine.

Persons injuring
ditch to damage
of others liable
for such damage
and may be fined

Fines—how
divided.

Compensation of
superintendents.

All cases under
this act tried
before justice of
peace.

Appeals allowed
only in cases of
damage.

out persons using water from the acequias, respectively, to repair the acequias or dams; and any person so using water from the acequias, who shall fail to supply his share of work necessary for repairs, shall be liable to a fine of not less than one dollar, nor more than five dollars, said fine to be appropriated to the benefit of the acequias.

SEC. 5. That it shall be the duty of the aforesaid superintendents to keep their acequias well repaired and in good order, so that an ample supply of water can at all times be had, and it shall be his duty to divide said water in such a manner that each and every one will have the amount of water he is entitled to; and if any of the aforesaid superintendents shall willfully, or for fee or reward give to any one more water than he is entitled to, or shall willfully keep from any one any part of the water he is entitled to, for every such offense he shall be liable to a fine of not over fifty dollars nor less than five dollars, the half of said fine to go to the informant and the other half to the use of the acequia.

SEC. 6. If any of the aforesaid superintendents shall willfully neglect their duty in such manner that damage is done, in addition to the damage done he shall be fined in any sum not exceeding twenty-five dollars; and if any one shall willfully break or destroy any acequia or dam, or shall turn the water into the crop of any one with the intention of damaging the same, he or they, in addition to such damage as may be done, shall be fined in any sum not exceeding fifty dollars; one-half of all fines under the provisions of this section to go to the informant, and the other half to the use of the acequia.

SEC. 7. The aforesaid superintendents shall receive such compensation as may be agreed on by a majority of those using water from the acequia of which he is the superintendent.

SEC. 8. All suits brought under the provisions of this act, shall be before some justice of the peace living in the county in which the offense was committed, and from the decision of said court there shall be no appeal, except suits brought exclusively for damage; *Provided*, that in all cases

a jury to consist of six disinterested persons may be summoned on demand from the defendant. Defendant may have jury.

SEC. 9. Elections held for the election of the aforesaid superintendents, shall be held in each precinct at the place of holding general elections, and in case of vacancy by removal, resignation or other cause, of any of the aforesaid superintendents, it shall be the duty of the justice of the peace living in the precinct nearest the acequia in which the vacancy exists, to call an election for the purpose of electing a superintendent to fill said vacancy. Elections—where held.
Vacancies—how filled

SEC. 10. In all cases where superintendents are found guilty of any accusation under the provisions of this act, he shall be removed from office and the vacancy filled under the provisions of section nine. Conviction of superintendents—removal from office.

SEC. 11. All money collected under the provisions of this act shall be placed in the hands of the superintendent of the acequia for which it was collected; and it shall be the duty of the aforesaid superintendent to render to any meeting that may be called by those interested in the acequia of which he is the superintendent, a true account of all money received by him, the amount expended, and for what purpose, and the amount on hand; and in all cases the majority of said meeting shall have the power of using any money that may be on hand, in such a manner as they deem most beneficial to the acequia. In case of removals or resignations, superintendents shall deliver to their successors all money that may be in their possession. Superintendent to receive and account for moneys.
Appropriations—how made.
Superintendent shall pay over ditch fund to successor.

SEC. 12. That public accquias, during the farming season, shall have preference over all ditches used for any mills, machinery or any other ditch that may not be exclusively used for farming purposes. Farm ditches to have preference.

SEC. 13. That in all cases of litigation under the provisions of this act, the same costs shall be paid and collected, as in like cases under the provisions of the general law. Costs.

SEC. 14. All acts and sections and parts of acts conflicting with the provisions of this act be, and the same are hereby repealed. Conflicting acts repealed.

SEC. 15. This act to take effect and be in force from and after its passage.

Approved February 5th, A. D. 1866.

AN ACT

To extend and make applicable to the county of Las Animas an act entitled "An Act to Regulate Ditches, used for Farming Purposes, in the Counties of Costilla and Conejos," found on pages 365 and 366 of the Revised Statutes of Colorado.

Be it enacted by the Council and House of Representatives of Colorado Territory:

SECTION 1. That the act entitled "An act to regulate ditches used for farming purposes in the counties of Costilla and Conejos," approved February 5, 1866, be and is hereby made to apply to the county of Las Animas.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved February 9th, 1872.

AN ACT

Concerning Irrigation.

Be it enacted by the Council and House of Representatives of Colorado Territory:

This act applies
to Las Animas
county.

That the "Acequia" which is about to be constructed by the inhabitants on the river of San Francisco, in the county of Las Animas, Territory of Colorado, and which takes its head at the south or west side of Manuel Ocana's farm, and runs thence in an easterly course until it reaches

the farm of Seferino Derrera, be recognized by the name of (Acequia Madre), or Main Ditch.

SEC. 2. That the superintendent of this acequia be elected according to section one (1) of the Revised Statutes of Colorado, page 365, that he be empowered to call out all persons using water from the acequia, respectively to repair the acequia, or dam, and he who shall fail to supply his share of work on the acequia, or dam, shall be liable to a fine imposed by the superintendent in a sum not less than two (2), nor more than six (6) dollars for each and every day he is absent when required. And said sum shall be applied to the benefit of said acequia.

SEC. 3. All acts or parts of acts in conflict with this act are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved February 12th, 1874.

AN ACT

Relating to Practice before a Justice of the Peace in the County of Las Animas, in this Territory.

Be it enacted by the Council and House of Representatives of Colorado Territory:

That at any time before any evidence is given in any suit before a justice of the peace in the county Las Animas, ^{Applicable to Las Animas county.} either party may demand to have the cause tried by a jury; whereupon it shall be the duty of the justice to issue his writ, directed to any constable, commanding him to summon a jury of six men, or twelve, if a less be objected to; and the said jury shall be impaneled as soon as may be, the justice adjourning the cause, if necessary, to any time not exceeding three (3) days for that purpose. The jury, when impaneled, shall be sworn by the justice to try the cause

according to the evidence, and the justice shall enter judgment upon the verdict, according to the finding thereof.

SEC. 2. Previous to the commencement of any trial before a justice of the peace in said county of Las Animas, the defendant, his or her agent, may make oath that it is the belief of such deponent that the defendant cannot have a fair and impartial trial before such justice, whereupon it shall be the duty of the justice immediately to transmit all the papers and documents belonging to the suit to the nearest justice of the peace, who shall proceed as if the said suit had been instituted before him.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved February 13th, 1874.

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